

# The Gazette of India

PUBLISHED BY AUTHORITY

No. 51] NEW DELHI, SATURDAY, DECEMBER 19, 1953

**NOTICE**

The undermentioned Gazettes of India Extraordinary were published upto the 12th December 1953 :—

Issue No.	No. and date	Issued by	Subject
305	S. R. O. 2235, dated the 7th December, 1953.	Delimitation Commission, India.	Final Order No. 4 in respect of the distribution of seats and the delimitation of Parliamentary and Legislative Assembly constituencies in the State of Travancore-Cochin.
306	S. R. O. 2236, dated the 5th December, 1953.	Election Commission, India.	To elect a person to fill the vacancy in the House of the People caused by the death of Shri Surendra Nath Buragohain, a member for the Sibsagar-North Lakhimpur constituency, in the State of Assam.
	S. R. O. 2237, dated the 9th December, 1953.	Ditto	Appointment of dates with respect to by-election to be held in the Sibsagar-North Lakhimpur constituency.
307	S. R. O. 2238, dated the 28th November, 1953.	Ditto	Election Petition No. 255 of 1952.
	S. R. O. 2239, dated the 28th November, 1953.	Ditto	Election Petition No. 259 of 1952.
308	S. R. O. 2261, dated the 30th November, 1953.	Ditto	Election Petition No. 306 of 1952.
309	S. R. O. 2262, dated the 10th December, 1953.	Ministry of Law	Fixation of the hours during which the poll shall be taken in the Sibsagar-North Lakhimpur constituency.
	S. R. O. 2263, dated the 10th December, 1953.	Ministry of Home Affairs.	Rule regarding grant of Sumptuary Allowance to the Minister of Information and Broadcasting.
310	S. R. O. 2264, S. R. O. 2265, S. R. O. 2266, S. R. O. 2267 and S. R. O. 2268, dated the 12th December, 1953.	Election Commission, India.	Notifications regarding a Vacancy caused by the death of Shri B. S. Venkat Rao, to be filled in the Council of States by the elected members of the Legislative Assembly of the State of Hyderabad.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

## PART II—Section 3

**Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).**

**ELECTION COMMISSION, INDIA**

*New Delhi, the 9th December 1953*

**S.R.O. 2277.**—In exercise of the powers conferred by section 20 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission, in consultation with the Central Government, hereby makes the following further amendment in its notification No. 62/17/51-Elec.11(1), dated the 25th August, 1951, namely:—

*“Amendment*

In the table appended to the said notification, for the existing entry in column 2 relating to the Ajmer South Parliamentary Constituency, the entry ‘Deputy Commissioner, Ajmer’ shall be substituted.”

[No. 155/17/(1)/8195.]

By Order,

P. N. SHINGHAL, Secy.

**MINISTRY OF HOME AFFAIRS**

*New Delhi, the 9th December 1953*

**S.R.O. 2278.**—In exercise of the powers conferred by clause (b) of sub-section (7) of section 63 of the Andhra State Act, 1953 (30 of 1953), the President hereby orders that every transferred officer shall, during the period he is required to serve in connection with the affairs of the State of Andhra, be given, in addition to the remuneration which he would have drawn if he had continued during such period, to serve in connection with the affairs of the State of Madras, an allowance at the rate specified in the entry under column 2 of the table annexed hereto, corresponding to the category of transferred officers under column 1 thereof to which he belongs:—

TABLE

Category of transferred officers	Rate of allowance
1	2
(1) Transferred officers ordered to serve in the offices of the State of Andhra, located in the City of Madras.	5 per cent of the pay of the officer concerned.
(2) Transferred officers who, under the terms of their appointment or the conditions of their service, were normally liable, before the appointed day, to serve in any part of the State of Madras and are on or after that day required to serve anywhere in the State of Andhra.	12½ per cent of the pay of the officer concerned.
(3) All other transferred officers.	25 per cent of the pay of the officer concerned.

**Explanation.**—For the purposes of this Order, the word “pay” includes special pay, but does not include allowances of any kind.

[No. 26/7/53-AIS(I).]

R. C. DUTT, Joint Secy.

CORRIGENDUM

*New Delhi, the 10th December 1953*

**S.R.O. 2279.**—In the notification of the Government of India in the Ministry of Home Affairs No. S.R.O. 1809, dated the 28th September, 1953, published at page 1539 of the Gazette of India, Part II, Section 3, dated the 3rd October, 1953, in item (b), for "aids-de-camp or personal bodyguards" read "servants."

[No. 9/44/53-Police(I).]

C. P. S. MENON, Under Secy.

*New Delhi, the 15th December 1953*

**S.R.O. 2280.**—In exercise of the powers conferred by article 318 of the Constitution, the President hereby directs that the following further amendment shall be made in the Union Public Service Commission (Conditions of Service) Regulations, namely:—

In the said Regulations, for regulation 8(1) (b) the following regulation shall be substituted, namely;

"(b) Leave on medical certificate or on private affairs at the rate of one-fifteenth of the period spent on duty on leave salary equivalent to half pay:

Provided that commuted leave on full pay not exceeding half the amount of half-pay leave due, upto a maximum of 36 days in all during a Member's tenure, may be granted if the leave is taken on medical certificate and the authority competent to sanction leave has reason to believe that the Member will return to duty on its expiry."

[No. 20/6/51-Ests.]

B. D. TEWARI, Dy. Secy.

MINISTRY OF STATES

*New Delhi, the 15th December 1953*

**S.R.O. 2281.**—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify

1. Maharaj Shri Mansinhji, and
2. Maharaj Shri Madansinhji,

members of the family of the Ruler of Idar for the purposes of that entry.

[No. 219-D.]

**S.R.O. 2282.**—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify

Maharajkumar Pramodsinhji,  
a member of the family of the Ruler of Rajpipla for the purposes of that entry.

[No. 220-D.]

**S.R.O. 2283.**—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify

Sahebzada Shri Zabardastkhan,  
a member of the family of the Ruler of Palanpur for the purposes of that entry.

[No. 221-D.]

**S.R.O. 2284.**—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify

Suba Shri Nadealikhan Bandalikhan,  
a member of the family of the Ruler of Radhanpur for the purposes of that entry.

[No. 222-D.]

**S.R.O. 2285.**—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify

1. K. S. Sajjansinhji Narharsinhji,
2. K. S. Gajendrasinhji Khumansinhji,
3. K. S. Rajendrasinhji Gajendrasinhji,
4. K. S. Surendrasinhji Gajendrasinhji,
5. K. S. Harisinhji Himatsinhji,
6. K. S. Ranjitsinhji Bhavansinhji,
7. K. S. Narsinhji Himatsinhji,
8. K. S. Amarsinhji Raisinhji, and
9. K. S. Prakramsinhji Raisinhji,

members of the family of the Ruler of Chhota Udepur for the purposes of that entry.

[No. 223-D.]

**S.R.O. 2286.**—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify

1. Maharaj Harischendrasinhji,
2. Maharaj Pravinsinhji, and
3. Maharaj Virvikramsinhji,

members of the family of the Ruler of Lunawada for the purposes of that entry.

[No. 224-D.]

**S.R.O. 2287.**—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify

1. Maharaj Shri Joravarsinhji, and
2. Maharaj Shri Gulabsinhji,

members of the family of the Ruler of Vijaynagar for the purposes of that entry.

[No. 225-D.]

**S.R.O. 2288.**—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify

1. K. S. Becharsinhji Karansinhji, and
2. K. S. Dansinhji Becharsinhji,

members of the family of the Ruler of Katosan for the purposes of that entry.

[No. 226-D.]

**S.R.O. 2289.**—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify

1. Maharaj Shri Prithisinhji, and
2. Maharaj Shri Narayansinhji,

members of the family of the Ruler of Danta for the purposes of that entry.

[No. 227-D.]

S. K. AYANGAR, Under Secy.

**RESERVE BANK OF INDIA**

(Central Office)

*Bombay, the 2nd November 1953*

**S.R.O. 2290.**—In pursuance of the notification of the Government of India in the Finance Department No. 12(13)-FI/47, dated the 25th March, 1947, the Reserve Bank hereby directs that the following amendment shall be made in the notification of the Reserve Bank of India No. F.E.R.A. 10/47-R.B., dated the 25th March, 1947, namely:—

In the Schedule to the said notification, after the entry "Hongkong and Shanghai Banking Corporation" the entry "Hyderabad State Bank" shall be inserted.

[No. F.E.R.A.122/53-R.B.]

B. RAMA RAU, Governor.

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**MINISTRY OF FINANCE (REVENUE DIVISION)**

CUSTOMS

*New Delhi, the 19th December 1953*

**S.R.O. 2291.**—In exercise of the powers conferred by section 23 of the Sea Customs Act, 1878 (VIII of 1878), the Central Government hereby exempts roasted and ground coffee, canned, bottled or otherwise packed in containers not exceeding 10 lbs. in weight, falling under item 17 of the Second Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), from the whole of the customs duty leviable thereon when exported from India.

[No. 96.]

E. RAJARAM RAO, Joint Secy.

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**INCOME-TAX***New Delhi, the 10th December 1953*

**S.R.O. 2292.**—The Central Government hereby directs that the following further amendment shall be made in the list appended to the notification of the Government of India in the Finance Department (Revenue Division) No. 34-Income-tax, dated the 23rd November 1946, namely:—

In the said list under the sub-head "Scientific and Industrial Research Associations" after entry 12-B, the following entry shall be inserted, namely:—

"12-C. Shri Ram Institute for Industrial Research, Delhi".

[No. 79.]

G. L. POPHALE, Dy. Secy.

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**REGISTRAR OF JOINT STOCK COMPANIES**

NOTICES

*Jullundur, the 5th December 1953*

**S.R.O. 2293.**—Notice is hereby given that the undermentioned companies against whom notices under section 247(3) of the Indian Companies Act 1913 were issued in the Punjab Government Gazette on the dates specified in each case, are not carrying on business and no objection has been received either from the companies concerned or other persons interested therein. Accordingly in pursuance of section 247(5) of the aforesaid Act, the names of the companies have been removed from the registers kept in my office.

S. No.	Name of the company	Date of publication of previous notice
1	Depositors Bank Ltd.	10th July, 1953
2	New Standard Metal Works (1949) Ltd.	Do.
3	Minerva Engineering Co. Ltd.	Do.
4	Nav Bharti Pictures Ltd.	Do.
5	Madan Kala Mandir Ltd.	Do.
6	Indian Brushware Industries Ltd.	Do.
7	Kamalia Pacca Arhties Association Ltd.	Do.
8	Hoshiarpur District Gur Dealers Syndicate Ltd.	Do.
9	National Coal Co. Ltd.	Do.
10	National Soap, Rice and Oil Mills Ltd.	Do.
11	Panipat National Dairies Ltd.	Do.
12	Northern Construction Co. Ltd.	Do.
13	Indra Datta Pictures Ltd.	Do.

**S.R.O. 2294.**—Notice is hereby given that the undermentioned companies to whom letters were issued by me in accordance with the provisions of section 247(1) and (2) of the Indian Companies Act 1913, are no longer carrying on business and I have therefore reasons to believe that they are not in operation. Accordingly a notice under section 247(3) of the said Act is issued against companies noted below to the effect that at the expiration of three months from the date of this publication, the names of the companies will, unless cause is shown to the contrary, be struck off the registers and the companies will be dissolved.

S. No.	Name of the company	Situation of registered Office
1	Gallessons Ltd.	Rewari.
2	Manoharpur Dayalbagh Stores Ltd.	Manoharpur (Gurdaspur).
3	Ajit Press Ltd.	Hoshiarpur.
4	Harijan Talkies Ltd.	Bahadurgarh (Rohtak).
5	Merchants & Traders Ltd.	Rohtak.
6	Jagraon Traders Ltd.	Jagraon.
7	Modern Bus Service Ltd.	Gurgaon.
8	Eagles Shoe Co. Ltd.	Jullundur.
9	Automobile Association of (Punjab) India.	Jullundur.
10	Gulati Managing Agents Ltd.	Panipat.
11	Gurgaon Electric Supply Co. Ltd.	Amritsar.
12	Trade Builders Ltd.	Amritsar.
13	Pathankot Construction & Bajri Supply Co. Ltd.	Pathankot.
14	Forwarding Agents Ltd.	Rupar.
15	Bijwara Bank Ltd.	Hoshiarpur.
16	Saberwal & Brothers Ltd.	Amritsar.
17	Durga Agencies Ltd.	Kaithal.
18	Shri Ganesh Pictures Ltd.	Jullundur City.
19	Bedi & Singh Ltd.	Amritsar.
20	Mesco Agriculture & Cold Storage Ltd.	Panipat.
21	Kamal Traders Ltd.	Amritsar.
22	Rohtak Bus and Transport Co. Ltd.	Rohtak.
23	Indian Book Co. Ltd.	Amritsar.
24	Upper India General Traders Ltd.	Dharamsala.

DES RAJ NANDA, Asstt. Registrar,  
Joint Stock Companies, Punjab.

*Trivandrum, the 2nd December 1953*

**Indian Companies Act VII of 1913**

PURSUANT TO SECTION 247 (5)

**S.R.O. 2295.**—It is hereby notified that the Companies noted below are this day struck off the Register, under section 247 of the Indian Companies Act VII of 1913, and they are dissolved.

1. K. V. Varkey & Sons Ltd., Changanacherry.
2. Eapen and Company Ltd., Quilon.
3. General Motor Engineers Ltd., Kottayam.
4. Jayabarath Manures and Chemicals Ltd.
5. The General Industries Ltd., Pathanapuram.
6. The Kottaram Estates Ltd., Alleppey.
7. The Inland Trading Company Ltd., Kottayam.
8. United Ice Products, Ltd., Kottayam.
9. The International Traders Ltd., Kottayam.
10. St. Joseph's Trading Co. Ltd.
11. Mahaluxmi Pictures Ltd., Kottayam.
12. General Trades Ltd., Kottayam.
13. The Central Trading Company Ltd.
14. The Inland Trades and Agencies Ltd., Thiruvalla.
15. The Thodupuzha Industrial Company Ltd., Thodupuzha.
16. The Strand United Neo-Industrials Ltd., Alleppey.
17. The North Travancore Motor Union Ltd., Parur.
18. The Indian Insurance Bank Ltd., Shertallai.
19. Akhila Thiruvithamcore Thatcher Maha Jana Sabha, Chirayinkil.
20. Bharath Burma Corporation Ltd., Mattancherry.
21. Cochin Industrials Ltd., Ernakulam.
22. The Panamkulam Guru Kulam Bank Ltd., Panamkulam.
23. The Cochin Industrial Syndicate Ltd., Trichur.
24. The Asiatic Trading Corporation Ltd., Ernakulam.
25. The Vanchi Trades Ltd., Trivandrum.

P. J. VERGHESE, Registrar.

*Coimbatore, the 7th December 1953*

**In the matter of the Indian Companies Act, 1913; and  
Sri Shanmugham Foundry And Motor Works Limited.**

PURSUANT TO SECTION 247(5)

**S.R.O. 2296.**—With reference to the Notice dated 20th August 1953, published on page 1133 of Part II of the *Fort. St. George Gazette*, dated 2nd September 1953, the above company not having shown cause to the contrary within the time fixed, the name of the company has, under Section 247(5) of the Indian Companies Act, 1913, been struck off the register.

R. SRINIVASAN, Asstt. Registrar.

*Tiruchirappalli, the 8th December 1953*

**In the matter of the Indian Companies Act, 1913 and the Karur Handlooms Limited.**

PURSUANT TO SECTION 247 (3)

**S.R.O. 2297.**—Whereas communications addressed to the above-named company at its registered office are returned undelivered by Post Office:

And whereas it appears accordingly that the above-named company is not carrying on business or is not in operation:

Notice is hereby given, pursuant to section 247(3) of the Indian Companies Act, 1913, that, unless cause is shown to the contrary before the expiration of three months from the date of this Notice, the name of the said company will be struck off the register and the said company will be dissolved.

(2) Total No. of workers on the list, including general staff.

## (3) Details of workers employed and looms and spindles worked per shift during the month :—

During the month	First Shift	Second Shift	Third Shift
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## (A) Average No. of workers actually employed—

(a) In spinning including all preparatory departments. \_\_\_\_\_

(b) In weaving including all preparatory departments. \_\_\_\_\_

(c) In all other departments including processing, finishing, clerical, etc. \_\_\_\_\_

## (B) Average No. of Spindles and Looms worked—

(a) SPINDLES { Ring \_\_\_\_\_  
 Mule \_\_\_\_\_  
 Wast \_\_\_\_\_  
 Doubling \_\_\_\_\_

(b) LOOMS \_\_\_\_\_

## (C) Average No. of hours worked—

(a) Spinning \_\_\_\_\_

(b) Weaving \_\_\_\_\_

## (4) Details of stoppages and absenteeism :—

N. B.—Strikes, lock-outs, major break-downs and repairs of less than a shift's duration may be ignored.

Daily average No. of workers affected	Total loom lost	No. of hours lost	Total spindle lost	No. of hours lost
1	2		3	

(a) Absenteeism \_\_\_\_\_

(b) Breakdown and repairs \_\_\_\_\_

(c) Strikes and lock-outs \_\_\_\_\_

(d) Other causes to be specifically mentioned \_\_\_\_\_

## (5) Looms and Spindles installed or dismantled during the month:—

	Looms	Spindles
--	-------	----------

Number of additional looms and spindles installed during the month. \_\_\_\_\_

Number of looms and spindles dismantled during the month. \_\_\_\_\_

Certified that the above particulars have been checked with the records of my mills and that they are, in so far as I can ascertain, accurate and complete.

Date.....

Signature of Manager or Managing Agent.

Place.....

[No. 9(9)-CT(A)/53.]

S. A. TECKCHANDANI, Under Secy.

## MINISTRY OF FOOD AND AGRICULTURE

(Agriculture)

New Delhi, the 14th December 1953

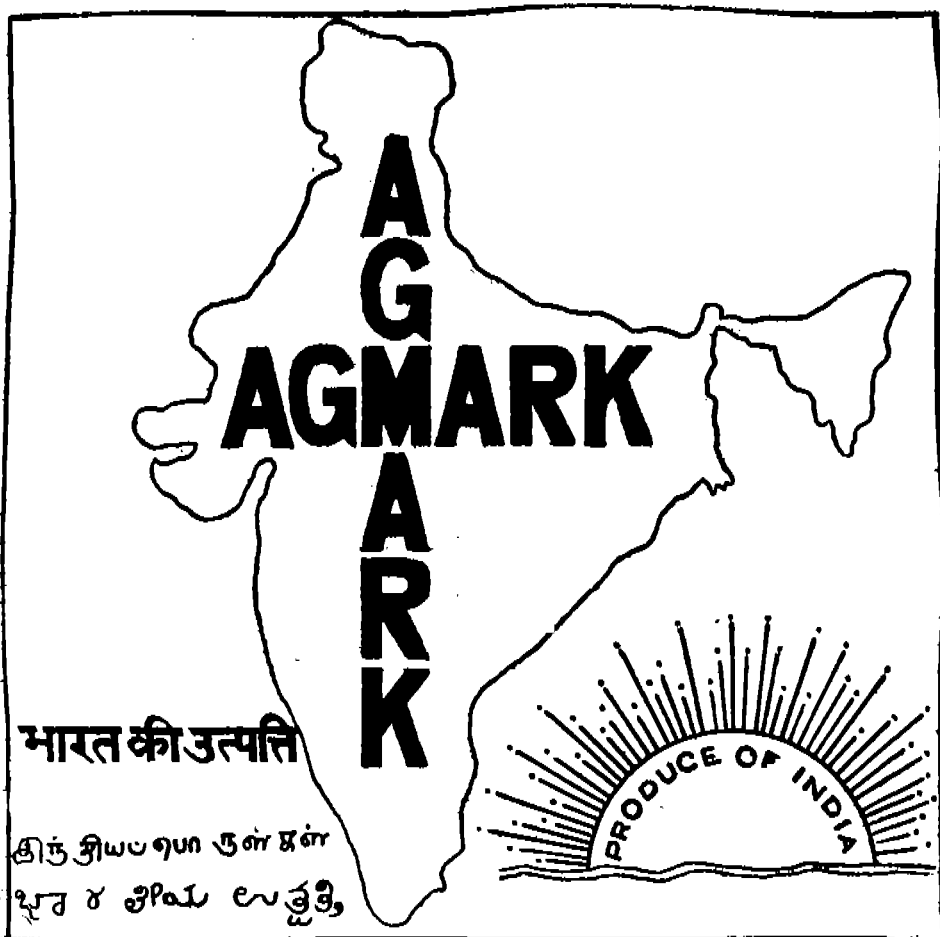
**S.R.O. 2300.**—The following draft of further amendment to the Sann Hemp Grading and Marking Rules, 1942, which it is proposed to make in exercise of the powers conferred by Section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (I of 1937), is published, as required by the said Section, for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after 15 days from the date of issue of this Notification.

Any objections or suggestions which may be received from any person with respect to the said draft before the time specified will be considered by the Central Government.

*Draft Amendment*

In Schedule I to the said Rules—

The existing grade designation mark for bales of Sann Hemp shall be substituted by the following grade designation mark:—



[No. F.2-12/53-Dte.II.]

S. D. UDHRAIN, Under Secy.

New Delhi, the 11th December 1953

**S.R.O. 2301.**—It is notified for general information that in pursuance of Sub-clause (iv) of Clause (f) of Section 4 of the Indian Central Oilseeds Committee Act, 1946 (IX of 1946), Shri Bhaja Govinda Roy has been nominated by the Government of West Bengal to be a member of the Indian Central Oilseeds Committee in place of Shri Bhaja Govinda Roy and Shri Iswar Lal Ghose.

[No. F.5-2/53-COM.I.]

New Delhi, the 15th December 1953

**S.R.O. 2302.**—Under section 4(ix) of the Indian Cotton Cess Act, 1923, (XIV of 1923), the Central Government are pleased to nominate Shri M. G. Karnikar, Director of Agriculture and Agricultural Production Commissioner, Madhya Bharat, to be a member of the Indian Central Cotton Committee, to represent the Government of Madhya Bharat vice Shri P. S. Bapna, resigned.

[No. F.1-2/53-Com.II.]

F. C. GERA, Under Secy.

### MINISTRY OF HEALTH

New Delhi, the 10th December 1953

**S.R.O. 2303.**—In exercise of the powers conferred by section 12 and 33 of the Drugs Act, 1940 (XXIII of 1940), the Central Government hereby directs that the following further amendment shall be made in the Drugs Rules, 1945, the same having been previously published as required by the said sections, namely:—

In Schedule C(1) to the said Rules, for item 1, the following item shall be substituted, namely:—

"1. Digitalis, Strophanthus and their preparations not in a form to be administered parenterally."

[No. F.1-21/51-DS.]

**S.R.O. 2304.**—The following draft of a further amendment in the Drugs Rules, 1945, which it is proposed to make after consultation with the Drugs Technical Advisory Board, in exercise of the powers conferred by section 33 of the Drugs Act, 1940 (XXIII of 1940), is published as required by the said section, for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration after the 19th March, 1954.

2. Any objection or suggestion which may be received from any person, with respect to the said draft, before the date specified, will be considered by the Central Government.

#### Draft Amendment

For rule 64 of the said Rules, the following rule shall be substituted, namely:—

"64. *Conditions to be satisfied before a licence in Form 20 or 21 is granted.*—A licence in Form 20 or Form 21 to sell, stock and exhibit for sale, or distribute drugs shall not be granted to any person, unless the authority empowered to grant the licence is satisfied that the premises in respect of which the licence is to be granted are adequate, equipped with proper storage accommodation for preserving the properties of the drugs to which the licence applies and are in-charge of a person competent in the opinion of the licensing authority to supervise and control the sale, distribution and preservation of drugs."

[No. F.1-22/52-DS.]

KRISHNA BIHARI, Under Secy.

*New Delhi, the 14th December 1953*

**S.R.O. 2305.**—In exercise of the powers conferred by clause (a) of sub-section (1) of section 3 of the Indian Medical Council Act, 1933 (XXVII of 1933) the Central Government is pleased to nominate, with effect from the 14th Decr 1953, Dr. M. V. Ramanamurthi, M.B., B.S., F.R.C.S. (Edin.), Director of M Services, Andhra, as a member of the Medical Council of India.

[No. F.5-13/53-MI.]

**S.R.O. 2306.**—Dr. Bidhan Chandra Roy, B.A., M.D. (Cal.), M.R.C.P. (Lond.), F.R.C.S. (Eng.) has been duly re-elected as a member of the Medical Council of India under clause (b) of sub-section (1) of section 3 of the Indian Medical Council Act, 1933 (XXVII of 1933) with effect from the 16th December, 1953.

[No. F.5-13/53-MI.]

R. NARASIMHAN, Under Secy.

## MINISTRY OF TRANSPORT

### MERCHANT SHIPPING

*New Delhi, the 12th December 1953*

**S.R.O. 2307.**—In exercise of the powers conferred by section 219 of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government hereby directs that the following further amendment shall be made in the Indian Merchant Shipping (Lead Line) Rules, 1934, the same having been previously published as required by the said section, namely:—

For the First Schedule to the said Rules, the following Schedule shall be substituted, namely:—

#### "FIRST SCHEDULE

#### Standard fees

Gross Tonnage	Classed Ships		Unclassed Ships	
	Fees		Fees	
	1 Issue or renewal of certificate	2 Annual Survey	3 Issue or renewal of certificate	4 Annual Survey
	Rs.	Rs.	Rs.	Rs.
Under 100 tons	112	48	452	76
100 tons and under 300 tons	176	48	600	76
300 tons and under 500 tons	240	80	828	112
500 tons and under 1000 tons	288	96	1120	152
1000 tons and under 1500 tons	368	128	1440	188
1500 tons and under 2000 tons	416	144	1656	224
2000 tons and under 2500 tons	464	160	1880	224
2500 tons and under 3000 tons	512	176	2104	264
3000 tons and under 4000 tons	544	192	2332	304
4000 tons and under 5000 tons	608	192	2560	304
5000 tons and under 6000 tons	656	192	2784	304
6000 tons and under 7000 tons	704	208	3008	304
7000 tons and under 8000 tons	736	208	3232	304
8000 tons and under 9000 tons	768	208	3456	304
9000 tons and under 10000 tons	800	224	3680	304
10000 tons and above	800	224	224 for every additional 1000 tons.	304

## VARIATIONS OF STANDARD FEES.

(1) *Annual Survey carried through in one operation.*—For every annual survey of any ship over 500 tons (classed or unclassed) which is carried through in one operation there shall be paid:

- (a) the standard fee, and
- (b) in addition, a single fee of Rs. 76 if, for the purposes of survey, more than one visit is paid to the ship by the Surveyor.

(2) *Annual Survey not carried through in one operation.*—For every annual survey of any ship (classed or unclassed) which is not carried through in one operation, there shall be paid:

- (a) the standard fee, and
- (b) in addition, a fee of Rs. 76 for every partial annual survey, and
- (c) for any ship over 500 tons, in addition, a single fee of Rs. 76 for every partial annual survey in respect of which, for the purposes of the partial annual survey, more than one visit is paid to the ship by the Surveyor.

(3) Where the survey for the issue or renewal of a load line certificate is carried out by the Government of India Surveyor concurrently with that for a certificate of survey or certificate of survey and safety certificate and the ship is—

- (a) a classed ship—no fee will be charged under column 1;
- (b) an unclassified ship—half the fee under column 3 will be charged.

(4) Where the annual load line survey is made by the Government of India Surveyor at the same time as the survey for the issue of a certificate of survey or certificate of survey and safety certificate, no fee will be charged under column 2 or column 4.

(5) Where minor alterations have been made to a ship having a load line certificate in force, which involve an alteration of the free-board but do not require a full survey, the fee will be half the fee in column 1, whether the ship is classed or unclassified.

(6) Where for special reasons a partial survey is made and a certificate is issued or renewed for a period not exceeding twelve months, one-half of the fee appropriate to a full survey will be charged.

(7) For the issue of a duplicate copy of a vessel's load-line certificate in the event of the original being lost, a fee of Rs. 16 will be charged.

(8) In addition to the fees payable under the above schedule there shall be payable along with an application for survey for a load line certificate a fee of Rs. 100 in respect of every survey which is required by such application to be made on any of the following days, namely:—

- (a) Sunday.
- (b) Bank Holiday (January 1).
- (c) Republic Day.
- (d) Holi.
- (e) Id-ul-Fitr.
- (f) Independence Day.
- (g) Dusshra.
- (h) Mahatma Gandhi's Birthday.
- (i) Diwali.
- (j) Christmas Day.

(9) The charge of overtime fees in respect of surveys or inspections for a load line certificate wholly or partially carried out between the hours of 5 P.M. and 7 A.M. shall be regulated as follows:—

- (a) Where on the application of the owner or agent of the ship a Surveyor is called upon to undertake the survey or inspection of a vessel after 5 P.M. and before 7 A.M. an additional fee of Rs. 75 shall be charged;
- (b) Where a Surveyor is detained at the request of the owner or agent after 5 P.M. to complete a survey undertaken between the hours of 7 A.M. and 5 P.M., an additional fee of Rs. 40 if the Surveyor is released from duty before 6 P.M., and of Rs. 75 if he is detained later than 6 P.M., shall be charged;

- (c) Where the owner or agent has asked for survey between the hours of 7 A.M. and 5 P.M. but official arrangements have not allowed of the work being done between these hours, no additional fee shall be chargeable;
- (d) Where a Surveyor has been called upon as specified in clause (a) or detained as specified in clause (b), the owner or agent shall give information of the fact in writing to the Principal Officer of the port, stating the hours during which the Surveyor was in attendance".

S. K. GHOSH, Dy. Secy.

### MINISTRY OF LABOUR

*New Delhi, the 9th December 1953*

**S.R.O. 2308.**—In pursuance of section 17 of Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shri Jaladhar Roy, an employee of the Saltore Colliery.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

APPLICATION No. 124 OF 1953

(arising out of Reference No. 6 of 1952)

In the matter of an application u/s 33A of Industrial Disputes Act 1947.

#### PRESENT:

Shri L. P. Dave, B.A., LL.B., *Chairman.*

#### PARTIES:

Shri Jaladhar Roy, Tip Sirkar, Saltore Colliery, P.O. Saltore, Dist. Manbhum, Bihar—*Complainant.*

*Vs.*

Saltore Colliery of M/s. Burrakur Coal Co. Ltd., P.O. Saltore, Dist. Manbhum, Bihar—*Opposite Party.*

#### APPEARANCES:

Shri Kanti Mehta, General Secretary, Bihar Colliery Mazdoor Sangh, Opposite Imperial Bank of India, Dhanbad—*For the Complainant.*

Shri D. N. Gupta, Chief Personnel Officer, Messrs. Bird & Co. Ltd., P.O. Sijua, Dist. Manbhum, Bihar—*For the Opposite Party.*

#### AWARD

This is an application under Section 33A of the Industrial Disputes Act 1947.

2. The complainant was admittedly serving as a Tip Sirkar in the Saltore Colliery of the opposite party. On 16th June 1953, he was ordered to work as a lamp checker. He did not join duties as a lamp checker, saying that the job of a lamp checker was inferior to that of a Tip Sirkar. On 2nd July 1953, he filed the present application requesting that he should get back the job as Tip Sirkar and he should be paid his full wages and emoluments for the period of forced unemployment. He also alleged that he had worked in two shifts from 1st June 1953 to 13th June 1953 but he was paid wages for working in one shift only. According to him, it was because he demanded extra wages for the second shift that the above action was taken against him.

3. The opposite party contended that the complainant had no cause of action as the complainant had not been suspended prior to his filing the present application. But that he was actually suspended on 11th July 1953. It denied that the post of a lamp checker was an inferior post and contended that the complainant was transferred to that post in the ordinary course of business on the same wages. It further urged that the post of a lamp checker was a respectable and responsible one and that it had every right to transfer him. It also denied that the complainant had worked in two shifts from 1st June 1953 to 13th June 1953 as alleged by him. It was urged that the present application should be dismissed.

4. Most of the facts in this case are not in dispute. The complainant was working as a Tip Sirkar of the opposite party. On 16th June 1953, he was transferred as a lamp checker but he failed to carry out that order. He contends that the post of lamp checker is an inferior post inasmuch as the pay of that post is less than the pay of the post of a Tip Sirkar and there are no chances of promotion from the post of a lamp checker, whereas there are some chances for promotion from the post of a Tip Sirkar. As the above order was passed during the pendency of Reference No. 6 of 1952 to which the opposite party and their workmen were parties, it is contended that the management had committed a breach of section 33 of the Industrial Disputes Act.

5. The first contention of the opposite party is that the complainant had not been dismissed or even suspended before the date of the present application which was filed on 2nd July 1953 (he was suspended on 11th July 1953), and hence the present application would not be maintainable. This contention cannot be accepted. Section 33 of the Industrial Disputes Act lays down that during the pendency of any proceeding before a Tribunal in respect of an industrial dispute, no employer shall alter, to the prejudice of the workmen concerned in any such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings or discharge or punish whether by dismissal or otherwise any such workman, except with express permission in writing of the Tribunal. In other words, section 33 prohibits not only discharge and punishment of a workman, but it also prohibits the alteration of the conditions of his service if they are prejudicial to him. In this case, the complainant was transferred from the post of a Tip Sirkar to the post of a lamp checker and if this was prejudicial to the workman, it would amount to an infringement of Section 33 of the Industrial Disputes Act and the complainant would be entitled to approach this Tribunal under Section 33A of the Act. As I said above, it is not only in the case of discharge or dismissal that Sections 33 and 33A are applicable; but they are applicable to cases of alteration of conditions of service also. That being so, even though the complainant may not have been suspended before the date of the application, the application will be maintainable, provided it is proved that the opposite party had altered the conditions of the complainant's service to his prejudice.

6. The important question that arises in the case therefore is whether the management have altered the conditions of complainant's services to his prejudice. It is, as I said above, an admitted fact that the applicant was working as a Tip Sirkar in the colliery for about 11 years and was transferred on 16th June 1953 to the post of a Lamp Checker. The complainant's first contention is that the management had no right to transfer the complainant. On the other hand, the management relied on the Standing Orders to show that they have such a right. No Standing Orders have however been certified so far as this colliery is concerned and there are no certified Standing Orders for them. The management cannot therefore rely on the draft Standing Orders for the purpose of giving them the right to transfer the complainant from one post to another. But even then, I think that every employer has an inherent right to transfer an employee from one post to another at least in the same colliery provided the transfer does not in any way prejudice the workman. In the present case the complainant was transferred from one post to another in the same colliery and in my opinion, the management had a right to do so, if that transfer did not prejudice the complainant in any way. In other words, the point for decision is whether the transfer of the complainant from the post of Tip Sirkar to the post of a lamp checker was one which should be considered to be prejudicial to the complainant.

7. In this connection, the complainant contends firstly that the post of a lamp checker is inferior to the post of a Tip Sirkar and secondly that there are no chances of promotion from the post of a lamp checker whereas there are chances of promotion from the post of a Tip Sirkar. In his evidence, the complainant (Exhibit 9) has stated that the duties of a Tip Sirkar are supervision of work of loaders, trammers etc., recording their attendance and giving them slips showing the work done by each of them. He has also to report about the raisings of sand and to prepare statements showing what cash concession etc. the workmen are entitled to. He has further stated that a Tip Sirkar stands a chance of promotion to the post of Attendance Clerk or Bonus Clerk or underground Mining Sirkar or underground in charge. The duties of lamp checker consist of checking of lamps carried by miners underground and also checking whether miners are carrying any matches or beedies with them underground. Lastly he has said that the post of lamp checker is considered inferior to that of a Tip Sirkar and also that if necessary, even an ordinary cooly or dresser is entrusted with the work of a lamp checker. In cross examination, he has pointed out two cases of persons who are promoted to other posts from the post of a Tip Sirkar.

8. As against this evidence, the management have not produced any evidence to show that a post of lamp checker is not inferior to the post of a Tip Sirkar or to

show that there are chances of promotion from the post of a lamp checker also. After the case was closed and on the date of arguments, the management produced a sheet showing that one Anil Mukherji who was a lamp checker in 1948 is a Lamp Issue Clerk in August 1953. From this it was suggested that even a lamp checker has a chance of promotion to a higher post. In this connection, Mr. Mehta on behalf of the complainant stated that this workman namely Anil Mukherji, had been demoted to the post of a lamp checker in 1948 but his original post was really a higher post and hence it could not be said that a lamp checker was promoted to the post of Lamp Issue Clerk. As these documents were produced by the management at a very late stage, the complainant could not produce evidence to prove these allegations. In my opinion, mere production of these sheets showing that Mr. Mukherji was a lamp checker in 1948 and Lamp Issue Clerk in 1953, would not be sufficient to show that a lamp checker could be promoted to a higher post. Mr. Mukherji has not been examined as a witness and not a single question was put to the complainant in the cross-examination suggesting that a lamp checker was promoted to a higher post. The cross examination was directed to show that a Tip Sirkar is not necessarily promoted to a higher post. In any case, the management ought to have produced more reliable evidence to show, if it was a fact, that a lamp checker stands a chance of promotion to a higher post.

9. The post of a Tip Sirkar carries daily basic wages of 0-10-0 whereas the daily basic wages of a lamp checker are 0-9-6. This is an admitted fact. The records of the management also show this. This would show that the post of a lamp checker is lower than the post of a Tip Sirkar.

10. It is true that the complainant was informed that he was transferred to the post of a lamp checker on the same pay as he was getting as Tip Sirkar but this would only mean that the complainant would not be a loser financially by the transfer. But the fact remains that he was transferred to an inferior post. This would certainly reflect on his credit and prestige among other co-workers; because it would be considered to be a demotion and unless there were special reasons, the management were not entitled to do so.

11. Looking to the fact that the post to which the complainant was transferred was an inferior post to the one which he was occupying and looking to the fact that he lost chances of promotion by the transfer, I am of opinion that the transfer was one which prejudiced his rights and which therefore amounted to an alteration in the conditions of his service to his prejudice, under Section 33 of the Industrial Disputes Act. The management were not entitled to do this during the pendency of Reference No. 6 of 1952, without the permission of this Tribunal.

12. I may then mention that in the course of the arguments, Mr. Gupta stated that as a Tip Sirkar had certain powers, the management thought it desirable that a man should not be continued in that post for a long time and that is why the complainant was transferred. In the first place, this would show that the post of a Tip Sirkar carries certain powers which the post of lamp checker had not got. This also would mean that the lamp checker's post was an inferior post. Actually the lamp checker's work is sometimes entrusted even to an ordinary labourer, showing that the post is not an important one. Secondly it may be noted that the complainant was working as Tip Sirkar continuously for about eleven years and so long the management never thought of transferring him. Their plea that the transfer was made because it was not considered desirable that a man should continue in this post for a long period cannot be accepted.

13. The complainant's case is that his transfer was due to the fact that he demanded extra wages for working in two shifts per day during the period 1st June 1953 to 13th June 1953. It is an admitted fact that ordinarily work is done in two shifts in this colliery but occasionally a third shift is also worked. It is also admitted that during the period from 1st June 1953 to 13th June 1953 the work was done in three shifts. It is further an admitted fact that during this period the complainant did work either in the first or second shifts. The complainant's case is that in addition to this, he also worked in the third shift during this period. The management denied this fact, namely that the complainant worked in the third shift during this period. Apart from the complainant's own testimony, Exhibit 9, which is not contradicted by any evidence, we have certain documents which support his allegations. These documents are Exhibits 20 to 25. Exhibit 20 is a chit addressed to the complainant by one Shri Chakravarti who was in charge of his department to send him Hazree Khata for the third shift. This chit shows that the complainant was in possession of this book and he could not have been in possession of that book unless he worked in the third shift. Exhibits 21 to 25 are daily reports for the third shifts for different dates during this period. All of them are signed by the complainant and are also initialled by Mr. Chakravarti. Actually Exhibit 21 is also initialled by the Assistant Manager. This would show that the complainant must have been working in the third shift on different dates during this period.

14. Mr. Gupta urged that the complainant had prepared these statements to help brother-in-law who was supervisor in charge of the trammers. There is no support to this allegation. The management have not led any evidence on the point. They could have examined the complainant's brother-in-law or Mr. Chakravarti or some other worker to show that the complainant never worked in the third shift. As I said above, the complainant's word stands uncontradicted, and is, on the other hand, supported by documentary evidence. The above documents bear the initials of the officers of the management. Further they are all signed by the complainant. If the complainant had prepared them only because he was helping his brother-in-law, he would not have signed the documents but would have got his brother-in-law sign them.

15. It was contended by Mr. Gupta that it was strange that these documents were in the possession of the complainant. I do not know what is the practice prevailing in the colliery; but *prima facie* it does appear that these documents should have been in the possession of the management. This would only mean that the complainant has got possession thereof in an improper manner. The management may, if they think fit, take such action as they may be advised to do in regard to this. But for the purpose of this application, the documents are on record and there cannot be any doubt about their genuineness because they bear the initials of the management's officers. That being so, the documents must be considered reliable and as I pointed out above, they lead to the inference that the complainant did work in the third shift from 1st June 1953 to 13th June 1953.

16. The complainant alleged that it was because he demanded wages for doing this extra work, that he was transferred to the inferior post. There appears to be considerable force in this contention. The complainant was working in this post for eleven years and the management never thought it necessary to transfer him. All of a sudden, he was transferred to an inferior post thereby causing prejudice to his prospects and affecting his prestige among fellow workmen. At the hearing, the prayer for payment on account of overtime work done between 1st June 1953 to 13th June 1953 was not pressed. Mr. Mehta on behalf of the complainant said that he would take the remedy he had under the Payment of Wages Act.

17. On the whole, I am satisfied that the management committed a breach of Section 33 of the Industrial Disputes Act by altering the conditions of complainant's services to his prejudice. The complainant was transferred to an inferior post and the management specifically asked him not to work in his original post but insisted on his working in the inferior post. They were not entitled to do so. It is true that they did not immediately suspend him and actually suspended him after the notice of this application was served on them; but the management's order asking the complainant not to work as Tip Sirkar amounted to his suspension from that post. The complainant was not willing to work in an inferior post and remained idle for no fault of his.

18. In my opinion, the management must therefore take him back to the post of Tip Sirkar from the date they transferred him to the post of lamp checker and pay him his back wages etc. as if he was in service as a Tip Sirkar all along. The arrears of wages etc. should be paid within one month of the award becoming enforceable. I pass my award accordingly.

(Sd.) L. P. DAVE, Chairman.

Central Government's Industrial Tribunal, Dhanbad.

[No. LR.2(365).]

The 30th November 1953.

#### ORDER

New Delhi, the 10th December 1953

**S.R.O. 2309.**—In exercise of the powers conferred by section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby directs that the following amendment shall be made in the Order of the Government of India in the Ministry of Labour, No. S.R.O. 2029, dated the 23rd October 1953, namely:

At the end of the Schedule to the said Order, the following entry shall be inserted, namely:—

“(7) Revision of scales of pay and dearness allowance”.

[LR-90(162).]

**S.R.O. 2310.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following order of the Industrial Tribunal, Dhanbad, in the industrial dispute between the General Assurance Society Limited and their workmen.

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

REFERENCE No. 9 OF 1953

**PRESENT:**

Shri L. P. Dave, B.A., LL.B., *Chairman.*

**PARTIES:**

The employers in relation to the General Assurance Society Ltd.

AND

Their workmen.

**APPEARANCES:**

Shri Chiranjit Singh, Divisional Manager, General Assurance Society Ltd.—  
*For the management.*

Shri Rabindra Nath Roy, Secretary, Insurance Employees' Federation (Delhi).—*For the workmen.*

**AWARD**

By Government of India, Ministry of Labour, Order No. LR.90(148), dated 29th August 1953/1st September 1953, an industrial dispute between the employers in relation to the General Assurance Society Limited and their workmen in respect of the question whether the termination of the services of Shri A. P. Verma from the Delhi Branch of the company was justified and if not what relief should be granted to him, was referred for adjudication to this Tribunal.

2. Usual notices were issued to both parties. The workmen represented by the Insurance Employees Federation put in a written statement contending that the services of Mr. Verma were dispensed with as a measure of victimisation and prayed that Mr. Verma should be ordered to be reinstated with consequential benefits. The employers (namely, the General Assurance Society Limited) filed a written statement denying the allegations of the workmen and contending that Mr. Verma was not victimised and that he was not entitled to reinstatement or compensation.

3. After this, the matter was fixed for hearing at Delhi on 23rd November 1953. On that day, a compromise petition was filed by the parties. It was signed by the representative of the management and the office-bearers of the workmen's union and also by Shri A. P. Verma who was the person said to have been wrongfully dismissed. The parties who had signed the compromise, also appeared before me and admitted the compromise. A copy of the said compromise is attached to this award. Under that compromise, the employers (namely, the General Assurance Society Limited) agreed to pay to Mr. Verma a sum of Rs. 2,500 (rupees two thousand and five hundred) in full and final settlement of all his claims (plus the provident fund including his own and the Society's contributions, which were to be paid in due course). I was also told that the amount of Rs. 2,500 was to be paid to Mr. Verma on that very day. The compromise is fair and reasonable.

I therefore pass an award in terms of the compromise between the parties.

The 30th November, 1953.

(Sd.) L. P. DAVE, *Chairman.*

BEFORE THE HON'BLE CHAIRMAN, CENTRAL GOVERNMENT'S INDUSTRIAL TRIBUNAL AT DHANBAD.

REFERENCE No. 9 OF 1953

*In the matter of Industrial Dispute*

**BETWEEN**

The employers in relation to the General Assurance Society Ltd., hereinafter referred to as the Society,

AND

Their workmen organised under the General Assurance Employees' Union represented by the Insurance Employees' Federation (Delhi) hereinafter referred to as the Federation.

The humble petition of both of the parties above-named most respectfully  
—

That both parties have amicably settled the dispute out of the Tribunal.

2. That the Society shall pay Shri A. P. Verma, the sum of Rs. 2,500 (excluding Provident Fund—own as well as Society's contribution, which will be paid in due course), in full and final settlement of all his claims.

3. That the premises made there be an award or no dispute between the parties.

And for this act of kindness your petitioners as in duty bound shall ever pray.

(Sd.) CHARANJIT SINGH,  
Divisional Manager,  
Representative of the Management.

The 21st November 1953.

(Sd.) RABINDRA NATH ROY, Secy.,  
Insurance Employees' Federation (Delhi),  
Representative of the workmen.

(Sd.) A. P. VERMA.

(Sd.) DEWAN C. GUPTA, Secy.,  
General Assurance Employees' Union.

(Sd.) Dr. S. C. TALWAR, President,  
General Assurance Employees' Union.

[No. LR.90(148).]

**S.R.O. 2311.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the dispute between certain banking companies and their workmen.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, Gurusaday Road, Ballygunge, Calcutta-19.

#### PRESENT:

Shri C. Bhaktavatsalu Naidu, B.A., B.L., *Chairman*.

(1) REFERENCE No. 5 OF 1953

The United Commercial Bank Ltd.

*Vs.*

- (1) Shri Jamuna Pandhya.
- (2) Shri Jainath Ram.
- (3) Shri Motahar Ali.
- (4) Shri Abdul Majid Mla.
- (5) Shri Radha Kissen Tewari.
- (6) Shri Shivji Singh.
- (7) Shri Ram Prasad.

(2) REFERENCE No. 8 OF 1953

The Chartered Bank of India, Australia & China.

*Vs.*

- (1) Shri Dasharathi Dutta.
- (2) Shri Gopi Nath Dutta.
- (3) Shri Du'al Chandra Laha.
- (4) Shri Tarini Kumar Adhiya.
- (5) Shri Broja Gopal Seal.
- (6) Shri Biswa Nath Dutta.
- (7) Shri Kartick Chandra Paul.
- (8) Shri Jagadindra Kumar Dutta.
- (9) Shri Gour Chand Mallick.

## (3) REFERENCE No. 10 OF 1953

The Central Bank of India Ltd.

*Vs.*

- (1) Shri Sukumar Mallick.
- (2) Shri Ravi Kumar Chatterjee.

## (4) REFERENCE No. 11 OF 1953

The Model Bank of India.

*Vs.*

Shri S. K. Chatterjee.

### AWARD

The above mentioned references arise out of an order of the Central Government No. LR.100(89)I, dated 6th August 1953 whereby the matters specified in column 4 of the Schedule to the Order were referred to the Central Government Industrial Tribunal at Calcutta for adjudication.

The order appointing me as sole Member of the Industrial Tribunal, Calcutta, under section 7 of the Industrial Disputes Act having been notified only in No. LR.60(180), dated 8th August 1953 another order was passed on the 14th August 1953 referring the said matters afresh for adjudication. The said order related to 27 workmen and as these workmen were persons employed in eight different Banks, it was thought expedient to split up the order into eight References in order to facilitate service of notices, etc. on the different Banks and workers and with a view to avoid confusion and to have a speedy disposal of the matters involved. So far the enquiry in four of the References have been closed and as it is apprehended that the enquiry in the other references will not be concluded for some more time this award is being passed in regard to the above-mentioned four References. A separate award will be passed as and when the enquiry in the other matters is concluded. I shall now proceed to deal with the above References one after the other.

## (1) REFERENCE No. 5 OF 1953

The United Commercial Bank Ltd.

*Vs.*

- (1) Shri Jamuna Pandya.
- (2) Shri Jainath Ram.
- (3) Shri Motahar Ali.
- (4) Shri Abdul Majid Mia.
- (5) Shri Radha Kissen Tewari.
- (6) Shri Shivji Singh.
- (7) Shri Ram Prasad.

#### APPEARANCES:

Shri A. Saha, General Secretary, assisted by Shri H. K. Mitter, President of the United Commercial Bank Employees' Association, Calcutta, for the workmen.

Shri R. V. Govindan, assisted by Shri M. Krishnan, for the Bank.

The dispute in this Reference is between the United Commercial Bank Ltd. and seven of their workmen who allege that they have been discharged from service in contravention of the principles of natural justice. The Union's case is that prior to the order of discharge the record of service of each of these employees was clean and satisfactory and no charge-sheet was ever issued to them or any complaint was made against them; that the action of the Bank in discharging the said workmen was not due to any genuine trade reasons; that the principle of "Last come, First go" was not applied; that when new employees were recruited the Bank did not offer any re-employment and therefore the workmen should be reinstated and wages and allowances should be paid from the date of discharge to the date of reinstatement.

Though the Bank has filed seven different written statements, only the case as regards Shri Jamuna Pandya is set out as some what different from that of the remaining six workmen. There are certain general contentions which are common to all the statements and they are:

- (1) The Reference is bad in law and void;
- (2) There is no industrial dispute between the Bank and the workmen;

- (3) There could not have been any industrial dispute on the date in question as on that date the employee was not a workman as defined in sub-section (s) of Section 2 of the Industrial Disputes Act, 1947;
- (4) The services of the workmen having been terminated in one case about 5 years ago and in other six cases about 4½ years ago, the matter cannot be considered as constituting an existing industrial disputes;
- (5) The United Commercial Bank Employees Association has no authority to represent the ex-employees.

With reference to Shri Jamuna Pandya it is stated that there being no question of victimization, the employee is not entitled to reinstatement; that he was employed in the Bank from April 1945 and his services were terminated from July 1948; that during a period of 23 months from September 1946 to July 1948 he was on leave or absent for more than nine months and on some occasions without even previous intimation; that several warnings were given to him but no heed was taken of them; that he is also disobedient in that he refused to do a particular job assigned to him; and that on being asked for explanation he could not give any satisfactory explanation. It is therefore stated that though in the circumstances he was liable to be dismissed from service without any notice his services were terminated and he was given one month's salary and allowances in lieu of notice. It is contended that the employee having given a receipt in full and final settlement of his claims he is precluded from preferring any claim. It is also stated that he received Provident Fund money without any protest. It is denied that in terminating his services the Bank acted illegally or against principles of natural justice.

As regards six other employees it is stated that they were discharged on 28th February 1949 on account of reduction in the establishment and this fact was clearly stated in the letter of discharge dated 24th February 1949. The contention of estoppel or waiver by reason of receiving salary and granting of receipt is also raised. The Bank states that early in the year 1949 the Bank reviewed the strength of different cadres at its various offices in relation to its requirements and found that the strength of several branches was in excess and therefore decided to retrench the surplus staff. It is also stated that in effecting retrenchment as a measure of economy, the Bank adopted the policy of discharging men over 50 years in preference to younger men, in discharging men with bad leave records in preference to others; and then discharging the last person appointed first, if none of the men came under the two previous categories. It is further stated that it was not practicable for the Bank to re-employ its retrenched employees.

The points that arise for consideration are:

- (1) Whether the Reference is bad in law and void;
- (2) Whether there was no industrial dispute;
- (3) Whether the seven workmen are 'workmen' as defined under sub-section (s) of Section 2 of the Industrial Disputes Act, 1947;
- (4) Whether retrenchment having been effected as long ago as five years in one case and 4½ years in the case of others, there is no existing industrial dispute;
- (5) Whether the Association has no authority to represent the employees;
- (6) Whether the workmen are estopped from claiming reinstatement in view of their having received salary and passed receipts in full and final settlement;
- (7) Whether the discharge of Shri Jamuna Pandya was made in contravention of the principles of natural justice or whether his services were terminated on account of bad leave record;
- (8) Whether the other six employees were discharged in contravention of the principles of natural justice or whether they were discharged by way of retrenchment as there was surplus staff.

At the enquiry Shri A. Saha, General Secretary, assisted by Shri H. K. Mitter, President, of the United Commercial Bank Employees Association, represented the workmen. Shri R. V. Govindan, assisted by Shri M. Krishnan appeared for the Bank. As only three of the workmen turned up they were examined as WW-1, WW-2 and WW-3. Shri R. B. Shah, Chief Accountant of the Bank was examined as EW-1.

I may say at the outset that there is not much force in the preliminary objections raised by the Bank. It has not been shown as to how the Reference is bad in law and void. It has been finally settled that even the dispute relating to an individual workman gives rise to an industrial dispute *vide* 1953—I—Labour Law.

Journal—757—Swadeshi Cotton Mills Ltd., and others and their respective men. The question relating to the discharge of these seven workmen was before the Tribunal and was considered by them. It has also been well settled that a discharged workman, even if the discharge gives rise to an industrial dispute, is a 'workman' within the meaning of the definition of sub-section (s) of Section 2 of the Industrial Disputes Act. The fact that the discharge order was made about 5 or 4½ years ago cannot be considered to be a bar to the question being agitated at present as the matter was before several Tribunals and could not be decided finally. Even though the workmen are ex-employees the Association will have authority to represent them so long as these persons are members of that Association or so long as the Association represents all the employees. As regards the contention of estoppel or waiver, it has been finally settled that unless there is a clear indication in the receipt granted by the employee to the effect that the employee has given up his rights to ask for reinstatement there can be no question of waiver or estoppel *vide* 1953—II—Labour Law Journal—p. 32—Standard Vacuum Employees' Union and Standard Vacuum Oil Co., Calcutta and 1953—II—Labour Law Journal—P. 128 at p. 132—E. Hill & Co., Ltd., and its workmen. In the receipts filed and exhibited there is no such indication. The employees were required to sign a receipt for having received salary in lieu of notice and if it is stated that they received the amount in full and final settlement of the claim it cannot be said that the employees lost their right to claim reinstatement.

Then turning to the merits it is seen that though it is stated that the case of Shri Januna Pandya is one of termination of services, it is really a case of discharge. In this case the principle of "Last come First go" was not observed as he had a bad leave record. This workman has been absent and has not been examined as a witness. The case of bad leave record could not therefore be put to him. The only workers examined are Shri Ram Prosad (WW-1), Shri Shivji Singh (WW-2) and Motahar Ali (WW-3). WW-1 was employed for about one year while the other two persons were employed for less than a year. There is nothing to show that while these persons were retrenched persons with lesser service were retained in service. The workmen having alleged that the principle of "Last come, First go" was not observed it is open to them to have at least stated in their examination the names of persons with lesser service who were retained in the Bank. None of these three witnesses ever spoke a word about this aspect of the case. Shri A. Saha after the whole evidence was closed and after the arguments were also heard in part, filed a petition to summon the records of the Bank and also applied for permission to re-examine his witness. There was nothing to prevent him from previously calling for the records or even questioning the Chief Accountant who was in the box as regards these records. No questions were put to him on this aspect of the case. The witness was therefore not allowed to be re-examined. WW-1 and WW-2 have in addition to granting receipts obtained certificates from the Bank. This would not be a ground for denying relief to them and the question to be considered is whether there was surplus staff and whether there was *bona fide* retrenchment. The evidence of EW-1 is to the effect that a large number of subordinate staff was kept with the purpose of training because the Bank intended to open a few more local offices and send such trained men to those offices; that permission to open more local branches was refused by the Reserve Bank of India and that it was found by the Head Office that the number of subordinate staff in Calcutta branches was much more than was necessary and therefore it was decided to reduce the staff. He is a person who took part in the discussions. Ex. 7 dated 1st February 1949 shows that recruitment of further staff was stopped. Ex. 8 shows that strength of the bearers was asked to be reduced. No doubt in Ex. 8 there is some ambiguity as regards the branches in which reduction of the bearers was to be effected but reading the exhibit as a whole it is perfectly clear that the reduction does not apply only to the bearers in Cornwallis Street and Bhowanipore Sub Branches as contended for by Shri A. Saha. As the staff of the sub branches mentioned in Ex. 8 were under the superintendence of EW-1, who was the Manager of the Calcutta branch at the time, this circular appears to have been sent to him.

There is absolutely no reason to suppose that the Bank was actuated by any *mala fide* motives in discharging these workmen. In Labour Appeal Cases 1952 at page 20—Vishwamitra Press Karyalaya—Vs—Their workmen it has been clearly laid down by the Labour Appellate Tribunal that it is a *prima facie* right of the management to determine its labour force and the management would be the best judge to determine the number of workmen who would become surplus on the ground of rationalization, economy or other reasons on which retrenchment can be sustained, and that in effecting the retrenchment if the management acts in a *bona fide* manner the number retrenched by it are to be accepted. No doubt it has been laid down that when the management is influenced by extraneous considerations or improper motives, the Tribunal must scrutinize the matter with great circumspection and must confine the number of

ret. ment strictly within the limits of actual requirement. There is no evidence in this case that the management was influenced by extraneous considerations or improper motives. The only position taken by Shri Saha is that though the Bank only started in 1943 it was in a very flourishing condition with increasing profits year after year. But from the very fact that the financial condition of the company was quite good it cannot be stated that the surplus staff should be retained. If in view of the increasing profits the Bank had an idea of starting several branches and therefore recruited more men than required and finally when the Reserve Bank refused permission to open further branches found that there was really surplus staff, the action of the management in reducing the staff cannot but be said to be *bona fide*.

One point strongly urged is that the principle of "Last come, First go" was not observed. I have already stated that the initial burden on the workmen to show that persons with less service were retained has not been discharged. On the other hand there is evidence to show that this principle was observed subject to the principle that persons of over 50 years of age were first retrenched and then persons with bad record were axed. I am satisfied that in the case of the three workmen examined before me the principle of "Last come First go" was observed. Another point urged is that when new recruits were taken the retrenched workmen were not offered employment. The Bank states that it is not practicable to offer employment as recruitment is in the hands of Jemadars and unless the retrenched workmen had approached the Jemadars it would not be possible to send offers to the workmen whose whereabouts were not within the knowledge of the Bank. The bearers generally come from the adjoining villages and once they leave the service of the Bank it would be difficult to get at them. There is no evidence that these seven workmen ever applied for re-employment to the Bank and that they were refused to be taken. I am satisfied on the evidence that in regard to the seven workmen concerned in this dispute, they were discharged on account of reduction of staff which was effected *bona fide*. In such a case the workmen will not be entitled to reinstatement or any other relief. My award therefore is that the seven workmen concerned in this dispute are not entitled to be reinstated or to be granted the other reliefs claimed by them.

Only one more point remains to be considered and that arrives out of the request of Mr. Saha to treat him as on duty from the day he left Bombay to attend this case to the day he concluded his arguments and also to grant him travelling allowance.

The principle of granting leave and travelling allowance to Union representatives who conduct cases, on behalf of the workmen, has been well recognised *vide* 1952—II—L.L.J. 54—Certain Banking Companies and Their workmen. Mr. Saha had to come from Bombay where he had gone in connection with the appeal now being heard by a Full Bench Labour Appellate Tribunal against Sastry's award, in order to conduct this case. He would, therefore, be treated to have been on duty from 24th November 1953 to 27th November 1953. He will also get travelling allowance and daily allowance at the rates fixed by Sastry's award for going to Calcutta from Bombay and for staying at Calcutta on 26th November 1953 and 27th November 1953. No orders are passed as regards the travelling allowance to go to Bombay as it is not known if he will be returning to Bombay now. If he does he can apply to the Labour Appellate Tribunal for appropriate orders.

I pass an award accordingly.

#### (2) REFERENCE NO. 8 OF 1953

The Chartered Bank of India, Australia & China

Vs

- (1) Shri Dasharathi Dutta.
- (2) Shri Gopinath Dutta.
- (3) Shri Dulal Chandra Laha.
- (4) Shri Tarini Kumar Adhiya.
- (5) Shri Broja Gopal Seal.
- (6) Shri Biswa Nath Dutta.
- (7) Shri Kartick Chandra Paul.
- (8) Shri Jagadindra Kumar Dutta.
- (9) Shri Gour Chand Mallick.

#### APPEARANCES

Shri M. M. Sen, Counsel, instructed by Shri Gajendra Nath Banerjee and Shri Anil Chandra Roy on behalf of the Chartered Bank of India, Australia & China Local Staff Employees Union (Calcutta).

Shri S. K. Mallick (Jr.) of Messrs. Sandersons & Morgans, Solicitors for the Bank.

The dispute in this Reference is between the Chartered Bank of India, Australia and China and nine of their workmen who alleged that their promotion has been stopped and that they must have been continued in the clerical grade. The nine workmen are represented by a labour union known as Chartered Bank of India, Australia & China Local Staff Employees Union (Calcutta). The Union has filed a statement of claims in pursuance of the notice issued to the workmen.

The case as set out in the statement is that the promotion of 18 clerks, whose names are mentioned in Annexure A to the statement of the Union was suddenly and illegally stopped in July 1947 and their increments were denied to them on the wrongful plea that they were Sarkars, Podders and Tellers and that though prior to July 1947 no distinction was made between the clerks doing the work of Sarkar, Podder and Teller and other clerks and the said 18 persons were given the benefits due to clerks until that date, the Bank taking advantage of Shri R. Gupta's award in Imperial Bank dispute adjusted the pay scales of the entire clerical staff by increasing their salaries etc. but in the case of the said 18 persons the promotion was stopped by designating the said persons for the first time as Podder, Sarkar or Teller. It is also stated in the statement of claims that in September 1946 the Bank issued a circular proposing three grades A, B and C for its employees; that again on 24th February 1947 the Bank issued another circular by which the revised scales were put into operation with effect from 1st July 1946 and all the clerks including the said 18 persons were fitted into the respective grades and paid extra wages due to them upon adjustment. It is further stated that out of the said 18 persons two were put on the pay scale of clerks in August 1950 and seven others in February 1951 in accordance with their respective years of service, that no relief was given to the remaining nine employees, and that they are also entitled to be put on the clerical grade and be given the salaries as shown in the chart in Annexure E to the statement.

The Bank filed a statement denying that promotions to the employees were stopped or that any industrial dispute existed at any material time over the alleged stoppage of promotion. The Bank contends that the alleged dispute is belated and time barred and should not be entertained. On the merits it is stated that the said 18 persons were appointed as members of the Bank's local staff for the purpose of working as Podder, Sarkar and Teller and they worked all along as such; that they were never appointed or required to work as clerks; that they were never entitled to or given the benefits of clerks. It is also stated that the said employees were getting more than the maximum which they were entitled to in the grade laid down for Podder, Sarkar and Teller in the award of Shri R. Gupta. It is also contended that the question of stoppage of increment was not referred to the Tribunal and hence it is not competent to go into the matter. The Bank denies that it acted in any arbitrary or highhanded manner or its action amounted to unfair labour practice. The Bank states that the distinction between clerk and Podder, Sarkar and Teller always existed and no clerk was ever assigned to do the work of Podder, Sarkar or Teller. The contention of the Bank is that the circulars referred to in the statement of the workers were intended for the clerical staff only and not for the Podders, Sarkars and Tellers and that the 18 persons were not fitted in the grades of clerks or paid extra wages by way of adjustment. It is also contended that the Union and the workers having accepted the revision of their conditions of service including those of the 18 persons as per Shri R. Gupta's award no dispute could be raised at this stage. As regards the nine persons who have been given the benefit of the clerical scale it is stated that it was done at the special request and on the recommendation of the Adjudicator of the Bank Tribunal of 1949 and that the Union having got an advantage in respect of those nine persons is not entitled to agitate the claim as regards the remaining nine persons until all the 18 persons were placed back into the same position as they had occupied before the recommendations of the Bank Tribunal. The Bank denies the correctness of the chart marked as Annexure E and states that the nine persons are not entitled to the clerical grade.

On these pleadings the following points arise for consideration:

- (1) Whether any industrial dispute existed as regards the stoppage of promotions to the nine workmen;
- (2) Whether the dispute is belated and time barred;
- (3) Whether the nine workmen along with the nine others were recruited to the local staff for the purpose of working as Podder, Teller or Sarkar and were never appointed or designated as clerks;
- (4) Whether the said nine persons were fitted into the clerical grade and adjustments made in regard to their salaries and their further increments were wrongfully stopped;

- (5) Whether the Tribunal is not competent to decide the question of the alleged stoppage of increment;
- (6) Whether distinction between clerks, and Podder, Sarkar and Teller always existed and no clerk was assigned the work of Podder, Sarkar and Teller;
- (7) Whether the Union and workers accepted the revision of the conditions of service of workmen as per the award of Shri R. Gupta and hence the case of the nine workmen cannot be agitated;
- (8) Whether in any event the Union cannot agitate the claim of the nine workmen until all the 18 persons are placed back into the position they occupied at first;
- (9) Whether the nine workmen are entitled to the grade and increment claimed as in Annexure E of the statement of claim.

At the enquiry the workers were represented by Shri M. M. Sen, Bar-at-Law and the management was represented by Shri S. K. Mullick (Jr.) of Messrs Sanders and Morgans, Solicitors.

The Union has adduced the evidence of Shri Gajendra Nath Banerjee, Secretary, the Chartered Bank of India, Australia and China Local Staff Employees Union (Calcutta), of Shri J. K. Dutta, one of the nine workmen and of one Shri Satyendra Nath Das, who is employed as a clerk in the Bank. The Chief Cashier of the Bank was examined as EW-1 and the Accountant of the Calcutta Branch of the Bank was examined as EW-3. EW-2 is one Shri Dibyendu Sen-Roy, who is at present staff officer in the Bank and who joined the Bank as Assistant in 1936. He has been examined for the purpose of showing that there were workmen designated as Podders, Sarkars and Tellers even from 1936. I may at once dispose of his evidence with the remark that he worked only for one or two months in the Cash Department and he cannot be expected to speak about the existence of these categories of workers. He exhibits such ignorance of the state of affairs in the Bank when he says that so far as he remembers "there was actually no difference in grades before 1948" that I am inclined to think that his evidence is worth nothing. At any rate in view of the evidence of more responsible officers such as the Chief Cashier and the Accountant as well as the documents that have been placed before me his evidence cannot be of much value. He seems to have been cited because EW-1 and EW-3 became connected with the Calcutta branch only in 1947 and 1952 respectively and could not be expected to know personally of the state of affairs in the Bank prior to 1947.

I shall refer to the other oral and documentary evidence in the case when I deal with the merits. I shall now deal with the preliminary objections raised in the written statement. As regards the existence of an industrial dispute there can be really no doubt. The point urged on behalf of the management is that the question relating to these nine workmen was not raised at any time prior to the filing of an additional statement before the Sen-Tribunal. There was no doubt a Tribunal known as Mercantile Tribunal which was entrusted with the work of adjudicating upon the disputes in mercantile firms. That Tribunal was in existence for over a year but never took up the question of adjudicating upon the individual disputes as before general disputes arising in the Banks were taken up for consideration; the Sen-Tribunal was appointed and there could not have been any opportunity of placing the individual disputes before the Mercantile Tribunal. It is also true that the case of these nine workmen was not placed before the Sen-Tribunal in the first instance but was agitated subsequently in the supplementary statement. In the early stages the Sen-Tribunal were dealing with the general questions relating to the disputes in the Banks and it is only later that the question of individual dispute was taken up for consideration. It cannot therefore be stated that the dispute is belated and there can be no question of bar of limitation.

Next turning to the merits it is seen from Exhibits D and D-1 which are appointment orders relating to Shri G. C. Mullick and Shri J. K. Dutta that they were appointed to the local staff on probation for a period of six months and that on their satisfactorily completing the period of probation they would be enrolled as permanent local staff on a salary of Rs. 40 p.m. It is not denied that these were the terms of appointment even with regard to the seven other workmen. It is clear that these nine workmen were not engaged particularly to do the duties of Podder, Sarkar and Teller, though it might be true that after they were included in the permanent local staff they were asked to attend to the duties of Podder, Sarkar or Teller.

I shall now refer to a few other documents filed in the case with a view to find out whether these nine workmen were recruited as Podder, Sarkar or Teller in the first instance and they were not recruited as clerks. That is the stand taken by Mr. MacFarlane in chart (Ex. 4) which was filed by him before the Sen-Tribunal. It will be pertinent to see how far this statement of the Accountant is borne out by the documents filed before me. The salary books of the Bank have been marked as Exhibits E, Ex. 8 and Ex. 11 for the periods January 1946 to July 1948, August 1948 to November 1950 and 27th July 1944 to 18th October 1945 respectively. Neither in Ex. E nor in Ex. 8 nor in Ex. 11 is there any reference made to a distinct category of workers designated as Podder, Teller and Sarkar. All the nine workmen are shown under the category of clerks. In Ex. E the nine workmen are shown as having been placed in grade C while no mention is made to grades in Ex. 11. The salaries of these nine workmen were also increased with effect from March 1947 as shown in Ex. E. In Ex. 8 employees other than the 18 persons whose increments are alleged to have been stopped have been fitted into the junior and senior grades thereby removing the 18 workmen from the grade of clerks and relegating them to a lower position of Podders, Sarkars and Tellers. Persons who have been doing the duties of Tellers among the 18 persons seem to have been subsequently given the grade of clerks evidently in view of the recommendation made by the Sen-Tribunal. The remaining nine workmen whose claims are now being agitated have been attending to the duties of Podders or Sarkars.

The case as set out in Ex. 4 is that the letters A, B and C entered as against 'grade' do not really represent grade but represent only certain markings which were in existence even in January 1946. Ex. E commences from January 1946 while the prior salary book Ex. 11 is for the period 27th July 1944 to 18th October 1945. No salary book for the intervening period i.e. from 19th October 1945 to 1st January 1946 has been produced. No grades appear in Ex. 11 and the grades appear only in Ex. E. It is seen from Ex. A dated September 1946 that there is reference made to a system of marking prevalent at that time. It is stated that a maximum of 10 marks each month will be allowed to all clerks in grade C and B on the basis of efficiency with reductions for carelessness, unpunctuality, etc. Increments of Rs. 8, 7, 6 and Rs. 5 are provided for those earning 90 marks, 80 marks, 70 marks and 60 marks in C grade. Similarly increases are provided for marks, in B grade also. The letters A, B and C appearing as against grade in Ex. A cannot possibly refer to any marks though it might be that the system of marking which was in vogue prior to January 1946 determined the grades into which the clerks should be fitted in. The circular Ex. 13 dated 30th April 1945 throws some light on the introduction of the system of marking. After referring to the new scheme of salaries of clerks it is stated at the end that the new scheme does not apply to Calcutta where the Agent with the approval of the head office was at that time trying out a system of annual increments by means of monthly markings in respect of efficiency etc. This shows that the system of marking began to be introduced somewhere in 1945 and by the time the salary book Ex. E was commenced, the grades had been determined. The grades which are referred to in Ex. A and which were tried to be implemented as shown in Ex. B must have been in contemplation even in January 1946 and that is how I think the grades came to be introduced in Ex. E. No doubt there are changes of grades from C to B and B to A but as regards persons who remained in grade C as shown in Ex. E there can be no doubt that the grade C represents the grade of clerks and cannot have any reference to markings as stated by Mr. MacFarlane. In this connection I would also like to refer to Ex. 9 series and Ex. 12 series which were produced by the Accountant Mr. A. T. Hobbs after search of records. These documents show that the system of marking began to be introduced in January 1945 and was discontinued with effect from January 1957. The only books that have been placed before me for showing that categories of workers such as Podders, Sarkars and Tellers were in existence for a long time are Ex. 7 and Ex. 14. Ex. 7 is a register of local staff salaries and is not available to the employees. Similarly Ex. 14 is also admittedly not made available to the employees. Though there is no reference to the category of workers known as Podders, Sarkars and Tellers in the body of the register of local staff salaries mention is made of Podders and Tellers in the Cash Department in the index which is prefixed to the register. According to the evidence of EW-3 this index might have been prepared by some Accountant who was curious to know as to what kind of work each employee was doing at the time when he took over charge. In Ex. 14 reference is made to persons doing the duties of Podder, Sarkar or Teller and the numbers shown in pencil as against these entries indicate that some of these nine workmen were employed as Podders or Sarkars. But from these documents it does not follow that the nine workmen were treated as persons outside the category of clerks or as persons who are included in a lower category. The entries in these two documents merely show that there were some employees in the Bank who were attending to the duties of Podders, Sarkars and Tellers. It therefore follows that though the Union's case that there was no categories of workers known as Podders, Sarkars and Tellers prior to the

awards of Shri R. Gupta may not be correct yet their case that no distinction was made between clerks and other persons doing the work of Podders, clerks, Sarkars and Tellers and all of them were treated as clerks and were placed in the clerical grade has been amply made out.

The question that now remains to be considered is as to whether if these nine workmen have been fitted into the grades A, B and C as per the circulars Exs. A and B and their salaries have also been fixed in accordance with those circulars, was it open to the Bank to remove these workmen from the category of clerks and to place them in a lower category of a separate class of workers known as Podders, Sarkars and Tellers just because the award of Shri R. Gupta fixed a lower grade of salary in regard to persons doing the duties of Podder, Sarkar and Teller. Though the Bank might be at liberty to introduce such scales to persons who are recruited thereafter as Podders, Sarkars and Tellers, I do not think the Bank was justified in denying these nine workmen, the scale of increments provided for clerks since there was no such distinction made prior to the award and these nine workmen were fitted into or continued to be kept in the C grade as per the circulars. It might be that the grades were mentioned in the salary book even in January 1946 long prior to the circulars but it cannot be contended that the workmen were not included in the C grade of clerks as in addition to continuing to denote the grades these workmen were also given increase of salaries by way of adjustment in pursuance of circulars. This conclusion is supported by what is mentioned in Ex. A under the heading 'immediate increases'. After setting out the grades and the increases that would be given according to the markings it is stated that in view of these revised terms the salaries of all existing permanent local staff excluding officer grade and the subordinate staff would be increased by Rs. 25 p.m. with effect from the 1st July 1946 and that all staff will be graded into the new grades on the basis of their revised salaries. I cannot accept the contention of the management that Ex. A refers to clerical staff and has no application to the category of workers known as Podders, Sarkars and Tellers. On the other hand the fact that reference is made to the existing permanent local staff excluding officers grade and subordinate staff shows that the circular did apply to the persons who were working as Podders, Sarkars and Tellers and hence to the nine workmen also. As already stated no distinction was made between the clerks and other employees attending to the work of Podders, Sarkars and Tellers and hence reference in Ex. A and B to clerical staff and local clerical staff must be deemed to have been made with reference to these nine workmen also. Evidence of WW-2 and WW-3 shows that WW-2 has been attending to the duties of clerk even though he may be designated at present as a Podder or Sarkar and that WW-3 who has been recruited as a clerk has been doing the duties of Sarkar also. This shows that no distinction was made even subsequent to 1947 and duties were being entrusted to the several employees in the Cash Department as the Chief Cashier thought it fit to do. The evidence of EW-1 and EW-3 cannot throw much light upon the state of affairs prior to 1947 and as I have come to the conclusion on the documents that these nine workmen were fitted into the grade of clerks, their increments in the clerical grade cannot be stopped just because the Chief Cashier thought it fit to entrust them with the duties of Podder or Sarkar especially in view of the assurance given to the workers in Ex. 1(b) to the effect that each and every member of the staff will trust the management's better judgment and at the same time their interests were at that time the management's prime consideration. I have therefore come to the conclusion that these nine workmen are entitled to increments in the clerical grade. It is however not possible to fix the present salaries of these nine persons as finality has not yet been reached in fixing the salaries of clerks in Banks. After the award of Shri R. Gupta the Sen-Tribunal fixed the salaries of the clerical staff. That award however has been set aside as being void by the Supreme Court. Subsequently Sastry-Tribunal was constituted and an award was given and that award is now the subject matter of an appeal before the Labour Appellate Tribunal. It is only after the scale of salaries of the clerks are finally determined that the salaries to which the present nine workmen are at present entitled can be determined. As regards the contention that this is only a case of stoppage of promotion and not a case of denial of increments I should observe that there is no tangible difference between the two. The workmen were given the clerical grade and were entitled to certain increments and subsequently they were denied the clerical grade and the increment was stopped. The stoppage of increments therefore amounts to stoppage of promotion. The contention of the management that this Tribunal is not competent to go into the question of stoppage of increment cannot therefore be accepted. My award therefore is that the Bank was not justified in stopping increments of the workmen in the scale of clerks and reducing them to a position inferior to that of clerks and that therefore the nine workmen are entitled to be given salaries in the scale of clerks which might be finally determined as a result of the decision of the Labour Appellate Tribunal. In the appeal that is now being argued before them. In fixing these salaries increments will be calculated with effect from 8th October 1949 the date on which the question of stoppage of increment was agitated for the first time. I pass an award accordingly.

## (3) REFERENCE No. 10 OF 1953.

The Central Bank of India Ltd.

Vs.

- (1) Shri Sukumar Mullick.
- (2) Shri Ravi Kumar Chatterjee.

Shri Sukumar Mullick in person.

## APPEARANCES:

Shri Ravi Kumar Chatterjee in person.

Shri S. K. Das, Sub Agent, Burdwan, and

Shri J. C. Roychoudhury Accountant, Jamshedpur Branch for the Central Bank of India Ltd.

This Reference deals with the cases of two workmen of the Central Bank of India Ltd. viz., Shri Sukumar Mullick and Shri Ravi Kumar Chatterjee whose services were terminated by the Bank.

In the statement of claim filed by Shri S. K. Mullick it is stated that he was suddenly served with a notice of termination of his service by the Agent, Jamshedpur Branch without assigning any reason; that after removing him from service his assistant Cashier was appointed in his place as Cashier on a cash security of Rs. 5,000 only while he had paid a security of Rs. 15,000; and that his prayer for reinstatement or for refund of security deposit should be considered to be one primarily for reinstatement and that relief of refund of security deposit was asked for only in case reinstatement was refused. It is also stated by him that the agreement which he was called upon to sign was an one-sided agreement in that while, he was compelled to work for a minimum period of five years, the Bank would be at liberty to terminate his services on giving three calendar months' notice in writing and therefore, he refused to enter into such a fresh agreement. According to him this refusal on his part annoyed the Bank authorities and hence they terminated his services unlawfully.

In the written statement filed by the Bank it is stated that Shri Mullick was appointed Cashier in August 1947, on the terms and conditions embodied in the agreement of service dated 5th August 1947; that there was a definite understanding that he should furnish security to the extent of Rs. 15,000; that Shri Mullick deposited only a sum of Rs. 10,000 in cash and gave a lien to the extent of Rs. 5,000 on the fixed deposit receipt issued to Shri M. G. Chakraborty, the guarantor; that in September 1948, Shri Mullick requested the Bank to release the deposit of the guarantor and expressed his inability to deposit like amount; that the Bank agreed to accept from Shri Mullick a fidelity guarantee policy of Rs. 10,000 in lieu of the lien on the fixed deposit receipt; and that Shri Mullick was unwilling to pay premium for the fidelity guarantee policy. It is also stated that further indulgence was shown to the workman by agreeing to a fidelity guarantee policy for Rs. 5,000 only the premium on which would be paid by the Bank provided the workman entered into an agreement of service for a period of five years; that the workman did not enter into any such agreement. It is further stated that Rs. 10,000 deposit given by the workman included Rs. 6,000 obtained from the Assistant Cashiers and that since the workman failed to comply with the requirements of the Bank and refused to execute the agreement his services were terminated. The Bank also states that the work of the petitioner was reported to be unsatisfactory and that there are other sufficient grounds justifying the termination of services.

The case of Shri Ravi Kumar Chatterjee as set out in the statement of claim is that he was appointed Cashier of the Central Bank of India Ltd., Burdwan, on 5th December, 1941; that though he was to furnish security only to the extent of Rs. 10,000 he gave security to the extent of Rs. 13,000; that he was not given sufficient help to get through his work and so had to work under great pressure; that a sum of Rs. 4,000 was deducted from his security and paid to Messrs. B. L. Poonja & Sons which sum the Bank is bound to refund to him and that thing came to a crisis when Shri Das, Sub Agent asked him to take charge of Bolpur Office and threatened him that unless he takes charge he would be in the bad books of the Bank authorities. He also states that he tried hard to procure the security money and absented himself for a few days and that when he was taken to task in an insulting manner he resigned the job in July 1946; that he withdrew his resignation letter later and continued to serve and all of a sudden he was made to hand over charge to another man in July 1947. He also complains that he owned property worth about Rs. 25,000 which has now dwindled to less than Rs. 10,000 as he has been unemployed for a long time and that he lost several good chances of re-employment during the period when he was compelled to serve the Bank in spite of his having resigned his job.

In the written statement filed by the Bank it is stated that the workman resigned his job as long ago as 1946; that the matter was finally disposed of by the Sen-Tribunal on 9th September, 1950, and that the Bank having implemented the directions given by the Sen-Tribunal it is not competent for the workmen to agitate the matter once again. The Bank states that the workman was required to furnish security to the extent of Rs. 12,000 and not Rs. 10,000; that sufficient help was given; that he agreed to take up the responsibility of the Cash Department of the new office at Bolpur and to furnish cash security to the extent of Rs. 5,000; that having taken leave for one day on 26th June, 1946, for the purpose of arranging the security deposit the workman absented himself for eight days; that on the date prior to his joining the office a shortage of Rs. 2,000 was found in the cash; that the explanation given by the workman for his absence having been found unsatisfactory he submitted his resignation which was accepted; but that as no suitable arrangement could be made for a new Cashier he was retained in service till 9th August, 1947. The Bank denies that the workman ever withdrew his resignation; and states that the workman was found to be careless in the discharge of his duties on different occasions and also vilified the Sub Agent Shri S. K. Das. The Bank also states that a sum of Rs. 4,000 due to Messrs B. L. Poonja and Sons was rightly deducted from the security deposit and that the Bank took a lenient view by refraining from taking any action against the workman.

The points that arise for determination in the case of these two workmen are:

- (1) Whether Shri Sukumar Mullick having obtained return of the security amount, is entitled to ask for reinstatement at this stage;
- (2) Whether there were proper grounds for terminating his services;
- (3) Whether Shri Ravi Kumar Chatterjee is entitled to reinstatement in view of his resignation of the post of Cashier in 1946; and
- (4) Whether he is disentitled to ask for reinstatement in view of the Bank implementing the award of the Sen-Tribunal.

*Points (1) and (2).*—Documents filed on behalf of the Bank show that in the matter of furnishing the security Shri Mullick was given all latitude and that while Shri Mullick at first agreed to execute an agreement as required by the Bank subsequently failed to do so. Clause 24 of the agreement (Ex. 11) shows that Shri Mullick was required to furnish security to the extent of Rs. 10,000 in addition to the amounts which the Assistant Cashiers have to pay by way of security. It is admitted by Shri Mullick that at least a sum of Rs. 2,000 paid by the Assistant Cashiers is included in the sum Rs. 10,000 paid by him. This shows that Shri Mullick did not furnish proper security as per his agreement and that he was unwilling to execute an agreement which he had at first agreed to execute. In the circumstances the Bank had no other option but to terminate the services of this workman.

There is some evidence adduced to show that the work and conduct of this workman were unsatisfactory but since no charges were framed, no written explanation called for and no open enquiry was held it is unnecessary to deal with this aspect of the case. The workman was willing to take his security and leave the services of the Bank. He was not anxious to continue in the service of the Bank. As he got back his security amount and left the services of the Bank, there is no question of any victimization by the Bank or any unfair labour practice on their part. It cannot also be held that there was any contravention of principles of natural justice either. In the circumstances set forth above the termination of the services is justified and I do not think that the workman can get reinstatement at this stage.

*Points (3) and (4).*—Shri Ravi Kumar Chatterjee resigned his job in 1946. A sum of Rs. 4,000 was deducted from his security amount. As the question relating to this matter has not been referred to this Tribunal, this Tribunal cannot go into the question as to whether it was rightly or wrongly deducted. The workman offered to furnish further security for being incharge of the Cash Department of Bolpur Branch and took leave for one day to find the amount. It is admitted that he absented himself for more than a week. Whether any pressure was brought to bear upon him to accept the Cashier's place at Bolpur it is immaterial to consider, since he offered to furnish security and took leave to find the money. When explanation was called for from him he gave an explanation which was found to be unsatisfactory. He was not satisfied with the treatment accorded to him during

the enquiry and submitted his resignation. His resignation was no doubt not accepted at once and he was allowed to continue in office for more than a year since the Bank was unable to find a suitable man in his place. There was some misunderstanding between the workman and Shri S. K. Das, Sub Agent and it is seen from Ex. 16 which was written recently that the workman used very strong and indecent language towards the Sub Agent. He appears to have behaved badly towards the Sub Agent even when he was in service. The Bank refused to pay bonus being three months salary which was due to him unless he gave an apology to the Sub Agent. The workman refused to give any such apology. When his case was placed before the Sen-Tribunal, he was awarded the bonus unconditionally and the Bank was also ordered to pay him three months wages in lieu of notice. All these amounts have been paid to the workman. Sen-Tribunal found that his was not a case fit for reinstatement. There was no victimization and no unfair labour practice nor could it be said that there was any contravention of principles of natural justice. The workman resigned his job voluntarily and continued to serve the Bank because he was not relieved. He now says that he lost several offers of jobs elsewhere and that on account of the Bank's attitude, he was not in a position to accept these jobs. As regards this no complaint was made during the time when he was in office. Having accepted the amounts that were made payable to him under the Sen-award he cannot now agitate the question of reinstatement especially as no case of wrongful termination of the services has been made out. I, therefore, find that Shri Ravi Kumar Chatterjee is not entitled to any relief at this stage. My award therefore is neither Shri Sukumar Mullick nor Shri Ravi Kumar Chatterjee is entitled to be reinstated. I pass an award accordingly.

(4) REFERENCE No. 11 OF 1953.

The Model Bank of India Ltd.,

Vs.

Shri S. K. Chatterjee.

This Reference relates to Shri S. K. Chatterjee who was employed in Bank of India Ltd. He claims payment of Bank's contribution to the Fund. In the statement of claim he stated that he worked for five years in the Bank and was getting a salary of Rs. 60 having been promoted to Cashier from Ledger-Keeper for his honest work; that he received Rs. 139-6 being the Provident Fund money deducted from his pay and that he is yet to get from the Bank a sum of Rs. 139-6 being the Bank's contribution. The Model Bank of India was sought to be served on two occasions by Registered Post but notices were returned with the endorsement 'left' and 'not known'. The Bank was however served when notices were sent through a special messenger but they did not file any written statement. Though the workman received a notice for the date of enquiry he did not appear and give evidence before the Tribunal. It would be necessary for him to adduce evidence to show that the Bank did contribute towards the Provident Fund its own quota and that he is entitled to draw the same. There is no such evidence before me and it is not therefore possible to grant the relief to the workman. Hence there will be no order in favour of the workman for the payment of the Bank's contribution. I pass an award accordingly.

(Sd.) C. BHAKTAVATSALU, *Chairman,*

Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

The 30th November, 1953.

[No. LR. 100(89).]

New Delhi, the 11th December 1953

**S.R.O. 2312.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Madurai, in the matter of applications under section 33A of the said Act from Messrs. Ayamu Mohamed, Syed Hamza, Mohamed Abu, Velayudhan Andi and Cheaku Mohamed, workmen of Messrs. Bhanjec Jevath Khona, Cochin.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT  
MADURAI

Wednesday, the 2nd December 1953

PRESENT: Sri E. Krishnamurthi, M.A., B.L., Industrial Tribunal at Madurai.  
INDUSTRIAL DISPUTE NOS. 273 TO 277 (CENTRAL) OF 1953

INDUSTRIAL DISPUTE No. 273 (CENTRAL)/53

BETWEEN

Ayamu Mohamed, Head Load worker, M/s. Bhanjee Jevath Khona, Cochin.  
—*Petitioner.*

AND

M/s. Bhanjee Jevath Khona, Merchant, Mattancherry, Cochin.—*Respondent.*  
INDUSTRIAL DISPUTE No. 274 (CENTRAL)/53

BETWEEN

Syed Hamza, Head Load worker under M/s. Bhanjee Jevath Khona, Cochin.  
—*Petitioner.*

AND

M/s. Bhanjee Jevath Khona, Merchant, Mattancherry, Cochin.—*Respondent.*  
INDUSTRIAL DISPUTE No. 275 (CENTRAL)/53

BETWEEN

Mohamed Abu, Head Load Labourer under M/s. Bhanjee Jevath Khona,  
Cochin.—*Petitioner.*

AND

M/s. Bhanjee Jevath Khona, Merchant, Mattancherry, Cochin.—*Respondent.*  
INDUSTRIAL DISPUTE No. 276 (CENTRAL)/53

BETWEEN

Velayudhan Andi, Head Load Labourer under M/s. Bhanjee Jevath Khona,  
Cochin.—*Petitioner.*

AND

M/s. Bhanjee Jevath Khona, Merchant, Mattancherry, Cochin.—*Respondent.*  
INDUSTRIAL DISPUTE No. 277 (CENTRAL)/53

BETWEEN

Chcaku Mohamed, Head Load labourer, under M/s. Bhanjee Jevath Khona,  
Cochin.—*Petitioner.*

AND

M/s. Bhanjee Jevath Khona, Merchant, Mattancherry, Cochin.—*Respondent.*

AWARD

By Order No. L.R.2(345)I, dated 14th October 1952, of the Government of India, Ministry of Labour, New Delhi, the industrial dispute between certain employers of stevedore labour and their workmen at Port Cochin, has been referred to this Tribunal for adjudication.

2. During the pendency of the said dispute the above petitions were filed by the respective petitioners under Section 33-A of the Industrial Disputes Act.

3. The allegations in the several petitions, which are identical are to the effect, that the respective petitioners were workmen under the opposite party Bhanjee Jevath Khona as head load workers from about 15 years prior to the date of the petitions, that a previous attempt to introduce a change in the working conditions was resisted by the labourers, that, on account thereof the respondent was trying to victimise the petitioner and the other workers, that on 24th July 1953 the opposite party refused to give work to the several petitioners, that this amounts to a discharge and a change in the conditions of service, and that the several petitioners should be given suitable relief.

4. The contention on behalf of the respondent in the several petitions is, that no head load labourer was engaged by the respondent at any time, that whatever head labour was necessary was engaged through contractors, that the several allegations in the petitions are denied, that there is no violation of Section 33-A of the Industrial Disputes Act, that no petition under Section 33-A lies, and that head load labourers are mere casual workmen employed on a day to day basis without any permanency or guarantee of service.

5. The following issues arise in all the above-mentioned disputes:—

1. Whether the several petitioners were workmen working under opposite party as alleged by them?
2. Whether there is a change in the conditions of service?
3. Whether there is a contravention of Section 33 of the Industrial Disputes Act?
4. Whether Section 33-A is applicable to the several petitions?
5. To what relief are the respective petitioners entitled?

6. *Issue Nos. 1 to 5.*—The above-mentioned petitions have been filed by the several petitioners on the ground that they were discharged by the opposite party unlawfully, during the pendency of Industrial Dispute No. 18 (Central) of 1951 without the permission of this Tribunal and in contravention of Section 33-A of the Industrial Disputes Act. The contention on behalf of the respondent is, that the petitioners were never his workmen, that he never employed the petitioners or any other head load labourer, that all his head load labour is secured through a contractor, and that section 33-A of the Act is not applicable to the facts of this case. It is urged, that Section 33-A has not been contravened in any manner.

7. At the time the petitions came on for enquiry both parties were persuaded to settle the matter between them. The matter was compromised in the following terms:—

“The workmen concerned are casual workmen employed through contractors.

The opposite parties contractor agrees to give them work hereafter on the usual terms.

It is prayed that an award may be made accordingly.

Dated the 27th November 1953.”

8. The abovementioned compromise is accepted.

9. In the result, in accordance with the compromise the contractor of the opposite party shall give work to the petitioners hereafter on the usual terms.

10. There will be no order as to costs.

Dated at Tiruchirapalli Camp, this the 2nd day of December 1953.

E. KRISHNAMURTHI, Industrial Tribunal at Madurai.

[No. LR-2(345).]

#### CORRIGENDUM.

*New Delhi, the 14th December, 1953*

**S.R.O. 2313.**—In the Schedule to the Order of the Government of India in the Ministry of Labour No. S.R.O. 2076, dated the 2nd November, 1953, published at page 1882 of the *Gazette of India*, Part II, Section 3, dated the 7th November, 1953, against serial No. 28 in column 2, for the name “M. P. Paliwal” substitute the name “H. P. Paliwal” and in column 4, after the word “Talao” add the words “Naya Shakar, Bikaner”.

[No. LR-100(89).]

P. S. EASWARAN, Under Secy.

*New Delhi, the 11th December, 1953*

**S.R.O. 2314.**—The draft of the Mines (Posting up of Abstracts) Rules, 1953, which it is proposed to make in exercise of the powers conferred by clause (m) of section 58 of the Mines Act, 1952 (XXXV of 1952), is published as required by sub-section (1) of section 59 of the said Act for the information of persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration after the 20th March 1954.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

#### *Draft Rules*

1. *Short title.*—(1) These rules may be called the Mines (Posting up of Abstracts) Rules, 1953.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

2. *Definition.*—In these rules, unless there is anything repugnant in the subject or context, ‘the Act’ means the Mines Act, 1952 (XXXV of 1952) and “section” means a section of the Act.

3. *Posting up of abstracts from the Act.*—(1) The abstracts of the Act contained in the Schedule annexed hereto shall be posted up at or near every mine in English, Hindi and in the language of the district in which the mine is situated, and shall be maintained in clear and legible condition.

Notwithstanding anything in sub-rule (1), the Chief Inspector or an Inspector may require the said abstracts to be posted in any other language also.

#### SCHEDULE

##### *Inspectors*

1. Any Inspector may enter and inspect any mine (by day and night) and make such examination and enquiry as may be necessary, to determine the condition of the mine and to ascertain whether the provisions of this Act and of the Regulations, Rules and Bye-laws are being observed. If he has reason to believe that these provisions have been or are being contravened, he may search any place and take possession of any register or record concerning the mine. (Section 7).

2. Any Government servant, duly authorised by the Chief Inspector or an Inspector, may enter any mine for the purpose of surveying, levelling and measuring after giving at least 3 days' notice to the manager. (Section 8).

3. Every owner, agent and manager of a mine shall afford every Inspector and every person authorised under section 8 all reasonable facilities for making any entry, inspection, survey, measurement, examination or enquiry under this Act. (Section 9).

##### *Management of Mines*

4. Every mine shall be under the control, management and direction of one manager having the prescribed qualifications. (Section 17).

5. The owner, agent and manager of every mine shall be responsible that all operations carried on in connection with the mine are conducted in accordance with the provisions of this Act and of the Regulations, Rules and Bye-laws and any order made thereunder. (Section 18).

##### *Provision of drinking water, ambulance appliances and latrines*

6. In every mine, both above and below ground--

(a) a sufficient supply of cool and wholesome drinking water shall be provided and maintained at suitable points conveniently situated for all persons employed in the mine. (Section 19).

(b) A sufficient number of first-aid boxes shall be provided and maintained. (Section 21).

(c) A sufficient number of latrines and urinals, separately for males and females, shall be provided in every mine at suitable places accessible at all times to all persons employed in the mine. All latrines and urinals shall be maintained in a clean and sanitary condition. (Section 20).

##### *Accidents*

7. Where there occurs in or about a mine an accident causing loss of life or serious bodily injury or any dangerous occurrence, a notice in the prescribed form shall be sent to the prescribed authorities and simultaneously a copy of such notice shall be posted at the mine on a special notice board and kept posted for not less than two months from the date of such posting. (Section 23).

8. Where any person employed in a mine contracts any disease connected with mining operations, the owner, agent or manager shall send notice thereof to the Chief Inspector and to such other authorities as may be prescribed. (Section 25).

##### *Hours and limitation of employment*

9. No person shall work in a mine on more than six days in any one week. (Section 28).

10. If any person works, as provided under this Act, on any day of rest fixed for him, he should be given a compensatory day of rest within that or the following two months. (Section 29).

11. No adult shall work above ground in a mine for more than forty-eight hours in any week or for more than nine hours in any day and he shall have at least half an hour's rest after working for not more than five hours. The spread over of the period of work including rest interval shall not normally be more than 12 hours. (Section 30).

12. No adult shall work below ground in a mine for more than forty-hours in any week or for more than eight hours in any day, except that a pump-minder, an on-setter or attendant of continuously operated machinery may work for not more than nine hours on any day or for not more than fifty-four hours in any week. (Section 31).

13. Where a person works in a mine for more than forty-eight hours, whether above or below ground, he shall get, for such overtime work, wages at the rate of—

- (a) twice his ordinary rate of wages, for underground work; and
- (b) one and a half times his ordinary rate of wages for work above ground.

'Ordinary rate of wages' means the basic wages plus such allowances including the cash equivalent of the advantage accruing through the sale on a concessional basis of foodgrains and other articles but does not include a bonus. (Section 33).

14. No person shall be allowed to work in a mine who has already been working in any other mine within the preceding 12 hours. (Section 34).

15. Except as may be permitted under section 39(a), no person shall work for more than ten hours in any day, inclusive of overtime, nor shall the total number of hours of his overtime work exceed fifty-four in any one quarter. (Section 35).

16. The Manager of every mine shall post outside the office a notice of working hours and no person shall be allowed to work otherwise than in accordance with the notice. (Section 36).

17. The provisions regarding weekly day of rest, hours of work above and below ground and of section 36 shall not apply to supervising staff. (Section 37).

18. In case of an emergency, the manager may permit in accordance with the rules under section 39 persons to be employed in contravention of the provisions regarding hours of work. (Section 38).

#### *Employment of Adolescents*

19. No person aged between 15 and 18 years shall work underground in a mine unless he has been certified as fit for work as an adult by a Certifying Surgeon and carries, while at work, a token giving a reference to such certificate and he shall have rest for at least half an hour after not more than four and a half hours of continuous work. He shall not be employed between 6 P.M. to 6 A.M. (Section 40).

20. A certificate of fitness granted or renewed for the purpose of section 40 shall be valid only for 12 months and may be conditional regarding employment in general or regarding the nature of work and may be revoked by a Certifying Surgeon if the holder of a certificate is no longer fit for the work specified in the certificate. Where a certificate or the renewal of a certificate is refused a Certifying Surgeon shall state his reasons for refusal if the person concerned so requires. The adolescent or his parents shall not be liable to pay any fees for medical examination under section 40 in all cases where he is sent by the manager of the mine in which he will be employed if found fit. (Section 41).

21. An adolescent, granted a certificate of fitness and working in a mine shall be considered to be an adult for the purposes of this Act. (Section 42).

22. Where an Inspector is of opinion that any person working in a mine without a certificate of fitness is an adolescent or that an adolescent working with such a certificate is no longer fit, he may ask the manager not to employ such person till he is examined or re-examined as the case may be and declared fit by a Certifying Surgeon or certified by him not to be an adolescent. (Section 43).

23. (1) No adolescent who has not been granted a medical certificate certifying that he is fit for work as an adult shall be employed or permitted to be employed above ground or in any workshop or power station in a mine or in any open cast workings in a mine—

- (a) for more than four and a half hours in any day; or
- (b) between the hours of 6 P.M. and 6 A.M.

The period of work of all such adolescents employed in a mine shall be limited to two shifts which shall not overlap or spread over more than five hours each, and each such adolescent shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 28 shall apply to such adolescents and notwithstanding anything contained in sub-section (1) of section 38 or in section 39, no exemption from the provisions of section 28 shall be granted in respect of any adolescent. (Section 44).

#### *Employment of women and children*

24. No person below the age of fifteen years shall be employed in any mine or allowed to be present in any part of a mine which is below ground or in any open excavation in which any mining work is being done. (Section 45).

25. No woman shall be employed at any time of the day or night in any part of a mine which is below ground, and no woman shall be employed in any mine above ground or in open cast excavations except between the hours of 6 A.M. and 7 P.M. (Section 46 and Notification S.R.O. 1395, dated 9th August 1952).

#### *Registration of workers*

26. For every mine, there shall be kept a register of employees showing in respect of each person his or her name, age, sex, nature of employment, date of commencement of employment, the periods of work, the intervals and days of rest, the relay to which he or she belongs, reference to the certificate of fitness in case of an adolescent and the entries in the register shall be authenticated by the signature or thumb impression of the person concerned. There shall also be kept separate registers for workpersons working (a) below ground (b) in opencast workings and (c) above ground showing in respect of each person the name, nature of his employment and the hours of relay and the relay to which he belongs. The register of persons employed below ground shall show at any moment the name of any person who is then present below ground in the mine. (Section 48).

#### *Leave with wages*

27. Every person employed in a mine who has completed twelve months' continuous service (not less than 190 attendances in case of loaders or piece-rated workers working below ground and not less than 265 attendances for other persons) in the mine, shall be allowed, during the following twelve months, leave with full pay:

(a) for fourteen days, in case of monthly paid staff;

(b) for seven days, in case of other workers.

No application for leave shall ordinarily be refused. If any person is discharged before he can take leave to which he is entitled he shall be paid his wages or pay for that period of leave. (Section 51).

28. For the leave allowed to a loader or a piece-rated worker employed below ground he shall be paid at the rate of daily average earnings during the month of December. For the leave allowed to a person who is paid weekly or monthly the rate shall be equal to his normal daily wages during the week preceding his leave. Daily average earnings or wages shall include cash equivalent of free foodgrains and other cash compensation drawn during the period concerned. (Section 52).

29. Any monthly paid employee who has been granted leave for ten days or more and any weekly paid employee or a loader or piece-rated worker working below ground who has been granted leave for five days or more shall be paid in advance the wages due for the period of the leave allowed. (Section 53).

#### *Penalties*

30. Any person obstructing an Inspector in the execution of his duties may be punished with imprisonment upto three months or a fine upto Rs. 500; or both. (Section 63).

31. Whoever makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true, may be punished with imprisonment upto three months or a fine upto Rs. 500, or both. (Section 64).

32. Whoever knowingly uses for himself a certificate of fitness granted (under Section 40) to some other person or allows a certificate of fitness granted to him to be used by any other person, may be punished with imprisonment upto one month or a fine upto Rs. 40; or both. (Section 65).

33. If any person below 18 years of age is employed in more than one on any day, his parents, guardian or custodian may be punished with a fine upto Rs. 50. (Section 68).

34. If any mine is run without a manager, the owner or agent may be punished with imprisonment upto three months or with a fine upto Rs. 500; or both. (Section 69).

35. Whoever fails to give notice of any accidental occurrence or to post a copy of the notice on a special notice board, may be punished with imprisonment upto three months or a fine upto Rs. 500; or both. (Section 70).

36. No person shall interfere with, misuse or wilfully neglect to make use of any appliance provided for the purpose of health, safety or welfare of the workers, or wilfully do anything likely to endanger himself or others. (Section 72).

37. Whoever contravenes any provision of this Act or of any regulation, rule or bye-law, or of any order made thereunder, for which no penalty is expressly provided may be punished with imprisonment upto three months, or a fine upto Rs. 1,000; or both. (Section 73).

38. Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder may be punished:

(a) if such contravention results in loss of life, with imprisonment upto one year or a fine upto Rs. 5,000; or both.

(b) if such contravention results in serious bodily injury, with imprisonment upto six months or a fine upto Rs. 2,000; or both. (Section 74).

[No. M-41(4) 53.]

A. P. VEERA RAGHAVAN, Under Secy.

*New Delhi, the 15th December 1953*

**S.R.O. 2315.**—In pursuance of paragraph 4 of the Employees' Provident Funds Scheme, 1952, the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Labour No. S.R.O. 1281, dated the 20th June, 1953, namely:—

In the said notification for item (1) the following item shall be substituted namely:—

“(1) Shri J. D. Kapadia, I.C.S., Secretary to the Government of Bombay, Development Department, Bombay.—Chairman nominated by the Central Government.”

[No. PF. 516(10).]

*New Delhi, the 19th December 1953*

**S.R.O. 2316.**—In pursuance of paragraph 3 of the Employees' Provident Funds Scheme, 1952, the Central Government hereby directs that the following further amendment shall be made in the notification of the Government of India in the Ministry of Labour, No. S.R.O. 1861, dated the 31st October, 1952, namely:—

In the said notification for item 5, the following item shall be substituted, namely:—

“5. Shri J. D. Kapadia, I.C.S., Secretary to the Government of Bombay, Development Department, Secretariat Annexe, Fort, Bombay-1.”

[No. PF.516(3).]

TEJA SINGH SAHNI, Under Secy.